

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**INTERIM APPLICATION (L) NO. 16205 OF 2022
IN
COMPANY PETITION NO. 947 OF 2014**

Sunil Pandurang Mantri

Age : 60 Years, Occupation : Business,
Having his address at : Flat No. 3 & 4,
Kamal Building, 69, Walkeshwar Road,
Mumbai - 400006.

... Applicant

IN THE MATTER BETWEEN

Maharashtra Savings

Through its sole proprietor of
Ashok Jagdishram Thapar,
Having address at A-3, Pamposh
Enclave, Greater Kailash,
New Delhi - 110048.

... Applicant

Versus

Mantri Realty Limited

A company incorporated under the
Indian Companies Act, 1956 having
their Office at GA-1, Court Chambers,
35, New Marine Line, Mumbai - 400020.

1. The Official Liquidator - High Court,
Bombay, 5th Floor, Bank of India Building,
M. G. Road, Fort, Mumbai - 400023.
2. Anil Bajranglal Agarwal
1st Floor, Jaipuria Building,
Dabholkarwadi, Kalbadevi Road,
Kalbadevi, Mumbai - 400002.

3. Padarsh Pharmaceuticals Pvt. Ltd.
Having address at 59-C Maker, Arcade,
Cuffe Parade, Mumbai - 400 005.
4. Mr. Darshan Chadda
Active Partner of Chadda and Chadda
Having address at : 162/B, Jolly Maker
Apartment No.1 95-97, Cuffe Parade,
Colaba, Mumbai - 400 005.
5. Darshan Devraj Chadda HUF
Having address at : 162/B, Jolly Maker
Apartment No.1 95-97, Cuffe Parade,
Colaba, Mumbai - 400 005.
6. Kavita Hemant Aswani
Having address at : 162/B, Jolly Maker
Apartment No.1 95-97, Cuffe Parade,
Colaba, Mumbai - 400 005.
7. Laxman Kumar Agarwal
Residing at : 83A, Jolly Maker Apartment 1,
Cuffe Parade, Mumbai - 400 005.
8. Anil Agarwal HUF
1st Floor, Jaipuria Building, Dabholkarwadi,
Kalbadevi Road, Kalbadevi, Mumbai - 400002.
9. Rakesh Chadha
Proprietor of M/s. Bekelite India
Having address at : Flat No. 9, 2nd Floor,
Chadha Building, Dr. Ambedkar Road,
Matunga, Mumbai - 400 019.
10. Ankit Anil Agarwal
1st Floor, Jaipuria Building, Dabholkarwadi,
Kalbadevi Road, Kalbadevi, Mumbai - 400 002.
11. Kailash Darshanlal Oberoi
An adult, Indian Inhabitant Housewife,
Having address at : 24, Anchorage,

Juhu Versova Link Road, Andheri (West),
Mumbai - 400 053.

12. Darshanlal Sonaram Oberoi
An adult, Indian Inhabitant, Retired Army
Commander, Having address at : 24, Anchorage,
Juhu Versova Link Road, Andheri (West),
Mumbai - 400 053.
13. Sushma Dharma Paul
An adult, Indian Inhabitant, Age : 65 Years,
(Senior Citizen) Having address at 204,
2nd Floor, Udyog Mandir No. 1, 7-C,
Pitamber Lane, Mahim, Mumbai - 400 016.
14. M/s. Ashok Commercial Enterprises
Having address at 126, Free Prase House,
215, Nariman Point, Mumbai - 400 021.
15. Seth Industries Pvt. Ltd.
Having address at F-140/141, First Floor,
Moongipa Arcade, Ganesh Chowk, D.N.Nagar,
Andheri (W), Mumbai - 400 053.
16. Mr. Hiren Dhupendra Goradia
Of Mumbai, Indian Inhabitant, Age - 41 Years,
Occupation : Business, having correspondence
Address at 22, Satguru, 16 French Road, behind
Dharam Palace Building, Chowpatty,
Mumbai - 400 007.
17. Ashok Thapar H.U.F.
Having address at Building No. SCO 6,
Sector - 14, Gurgaon, Through its Karta
Ashok Thapar
18. Sanjeev Gupta
Sole Proprietor of M/s. Global Advertisers
Having address at Shree Ram Trade Centre,
6th Floor, S.V.P. Road, Near Chamunda Circle,
Borivali (West), Mumbai - 400 092.

19. Jain Nagin Fulchand
Karta of Jain Nagin Fulchand (HUF)
Having address at A/206, Shankeshwar Tower,
Seth Motishah Lane, Mazgaon, Mumbai - 400 010.
20. Sandeep Nagin Jain
Karta of Sandeep Nagin Jain HUF
Having address at A/206, Shankeshwar Tower,
Seth Motishah Lane, Mazgaon, Mumbai - 400 010.
21. Shivani Vishal Paul
An adult, Indian Inhabitant, Age : 34 Years,
Having address at 204, 2nd Floor, Udyog Mandir,
No. 1, 7-C, Pitamber Lane, Mahim, Mumbai - 400 016.
22. Sushma Dharam Paul
An adult, Indian Inhabitant, Age : 65 Years,
(Senior Citizen) Having address at 204,
2nd Floor, Udyog Mandir No. 1, 7-C,
Pitamber Lane, Mahim, Mumbai - 400 016.
23. Dharam Paul
An adult, Indian Inhabitant, Age : 70 Years,
(Senior Citizen) Having address at : 204,
2nd Floor, Udyog Mandir No. 1, 7-C,
Pitamber Lane, Mahim, Mumbai - 400 016.
24. Vishal Dharam Paul
An adult, Indian Inhabitant, Age : 40 Years,
Having address at 204, 2nd Floor, Udyog Mandir
No. 1, 7-C, Pitamber Lane, Mahim, Mumbai - 400 016.
25. Dharam Paul HUF
Through its Karta : Dharam Paul
An adult, Indian Inhabitant, Age : 70 Years,
(Senior Citizen) Having address at 204,
2nd Floor, Udyog Mandir No. 1, 7-C,
Pitamber Lane, Mahim, Mumbai - 400 016.
26. Shruti Seth
An adult, Indian Inhabitant, Age : 65 Years,

(Senior Citizen) Having address at 204,
2nd Floor, Udyog Mandir No. 1, 7-C,
Pitamber Lane, Mahim, Mumbai – 400 016.

27. Dharam Paul
An adult, Indian Inhabitant, Age : 70 Years,
(Senior Citizen) Having address at 204,
2nd Floor, Udyog Mandir No. 1, 7-C,
Pitamber Lane, Mahim, Mumbai – 400 016.
28. Ms. Rashmi Vig
Widow of Late Anrudh Vig, Age : 56 Years,
Having address at Flat No. 8, Mayfair CHS
75C, Veer Nariman Road, Churchgate,
Mumbai – 400 020.
29. 1. Jawaharlal Panjabi
2. Mrs. Vandana Jawaharlal Panjabi
Both Adults, Indian Inhabitants,
Having address at Flat No. 51, Abhilasha Sadan
43, Pali Hills, Bandra (West),
Mumbai – 400 050.
30. Pravathi Pushpa Subramanium Mani
31. Invent Assets Securitisation and
Reconstruction Private Limited
Having Office at : 107, Jolly Maker Chambers
No. 2,225, Nariman Point, Mumbai – 400 021.
32. V. K. Thayagarajan and Associates
Proprietor of Thayagarjan Venkata Prasad
Having address at : 4, Thyagi M Palanivellu
Road, Xavier Layour, Victoria Layout,
Bangaluru, Karnataka – 560 046.
33. Poonam Bijlani
Age : 63 Years, having her residential
address at : 3, Sanjukta, Off S V Road,
Bandra (W), Mumbai – 400 050.

34. R. V. Unitrade Pvt. LLP.
Having address at 268/29 & 269/29,
Pipe Line Road, Mahadeshwar Nagar,
PO - Vishwaneedam, Sunkadakatte,
Bangaluru, Karnataka - 560 091.

35. Ankita Hirawat
Having address at 268/29 & 269/29,
Pipe Line Road, Mahadeshwar Nagar,
PO - Vishwaneedam, Sunkadakatte,
Bangaluru, Karnataka - 560 091.

... Respondents

Mr. Abad Ponda - Senior Advocate a/w Mr.Sahil Mahajan for the Applicant.

Mr.Anil Agarwal for the Respondents No. 11, 12, 28, 29 and 30.

Ms. Leena Sapra for the Respondent No. 15.

Mr.Prathamesh Kamat a/w Mr. Osama Butt, Mr. Bodhisattwa for the Official Liquidator.

Ms. Aanchal Jain a/w Mr. Narendra Devvansh and Mr. Shre Shah i/ b. Law Chamber of Siddharth Murarka for Respondent No. 17.

CORAM : ABHAY AHUJA, J

DATE : 1st JUNE 2022

P.C. :

1. This Application has been filed for the following reliefs :

“(a) *that this Hon’ble Court be pleased to release the passport of Mr. Sunil Pandurang Mantri i.e. the Applicant herein for the purpose of making application to Passport Authorities*

for Re-issuance of the New passport;

(b) that this Hon'ble Court be pleased to allow the Applicant to travel to Nepal for attending the marriage ceremony of Ms. Ankita Garg from 02.06.2022 to 08.06.2022;

2. Mr.Abad Ponda, learned Senior Counsel for the Applicant submits at the outset that the Applicant does not need the Passport for travel to Nepal and therefore, he is not pressing for prayer clause (a) and is restricting the Application and his arguments to prayer clause (b) only.

3. He submits that the Applicant has been invited to attend the wedding of his friend's child which is scheduled on 4th June, 2022 with pre-wedding ceremonies on 3rd June, 2022. He draws the attention of this Court to the wedding invitation (Exh.D - Page Nos. 39 to 47 of the Application) which is a coloured print out of the purported wedding between Ankita and Vimal purported to have been received on the 16th of May, 2022 by e-mail.

4. Learned Senior Counsel submits that therefore, the Applicant is desirous of travelling from 2nd June, 2022 to 8th June, 2022.

Learned Senior Counsel submits that although no passport is required to visit Nepal, however, as a dignified citizen respectful to the orders of this Court, this Application has been preferred. Learned Senior Counsel would submit that this is the first time after 2016, that the Applicant has preferred such an Application.

5. He would submit that this Application has been necessitated in view of Paragraph 10 of the order dated 8th January, 2016 of this Court which is quoted as under :

“10 From the said affidavit, it appears that the following are the directors of the Company as on date :

- (1) Shri Ranjit Rane;*
- (2) Shri Deepankar Salvi*
- (3) Shri Pankaj Arekar.*

Therefore, all the Directors of the Company and Shri Sunil Mantri are hereby restrained from leaving the country until further orders.”

(Emphasis Supplied)

6. Learned Senior Counsel submits that the Applicant is willing to give any security for his return to India. He submits that the Applicant has his aged parents in India; his passport has already been deposited with this Court pursuant to earlier orders. He submits that although it is alleged that there are 50 cases pending

against the Applicant, however, the same are allailable. He would submit that there is no pending proclamation and although his client owes money to people, the Official Liquidator has been appointed and the process of liquidation is in progress. Learned Senior Counsel submits that his client is not a defaulter and nothing will happen in four days, if the Applicant is permitted to travel for his friend's daughter wedding to Nepal. Learned Senior Counsel submits that the allegation that the statement of claim etc., has not been filed by his client as all the details are in the documents which are with the Official Liquidator. He also submits that if the Court so desires, as a security for his return, the Applicant is willing to deposit the passport of his aged parents. Learned Senior Counsel would submit that there is no FIR against the Applicant and the Applicant is not a hardened criminal. Learned Senior Counsel would submit that the Applicant has a fundamental right to travel and if he has not run away for 6 years, why would he do the same now.

7. Learned Senior Counsel relies upon decision of **Sultan Kamruddin Dharani V/s. Union of India & Ors. [2008 All.M.R. (Cri) 3156]** and submits that in the case of aailable offence, the person shall be released on bail as a matter of right and there is no

provision in Section 436(1) of the Criminal Procedure Code, 1973 to put conditions on grant of such bail. He would submit that the Applicant herein is placed in a better situation, than the Petitioner in the said case. He reiterates that the Applicant notwithstanding the said decision is willing to abide by any condition imposed by this Court to secure his return to India. Learned Senior Counsel has also relied upon the decision of this Court in the case of **Suresh Nanda V/s. C.B.I. [2008 AIR (SC) 1414]**. Referring to the said decision, learned Senior Counsel submits that Article 21 includes within its ambit the right to go abroad and no person can be deprived of this right except according to procedure prescribed by law. He submits that except under the Passports Act, 1967 refusing to issue passport, any refusal to travel abroad would be in violation of Article 21 of the Constitution of India.

8. Upon a query from the Court regarding the requirement of a passport for travelling to Nepal, Mr.Prathamesh Kamat, learned Counsel for the Official Liquidator confirms that there is no passport required for travelling to Nepal.

9. Coming to the Interim Application, Mr.Prathamesh Kamat,

learned Counsel for the Official Liquidator submits that the Official Liquidator is the custodian of all the creditors. He submits that the conduct of the Applicant has been despicable and draws the attention of this Court to the various orders passed against the Applicant submitting that this Court has on more than two occasions taken judicial notice of such conduct of the Applicant. Learned Counsel submits that a Civil Court has power to injunct a person from travelling abroad, if there is such an apprehension. He refers to Paragraphs 5, 7, 9 of the order dated 8th January, 2016 in support of his contentions which are quoted as under :

5 The conduct of Shri Sunil Mantri smacks of utter dishonesty and disrespect to the Court. The indulgence that was granted from time has only been abused. It is quite obvious, particularly, when one considers the Bangalore project, that the attempt was to drag on the matters by assuring settlement, and in the meanwhile, create third party rights or hive of the assets and deprive the creditors of their dues. When he is supposed to have resigned as director of the Company he continued to represent to the Court that he was the Managing Director. One thing is clear, though on record he has creased to be a Director, that is only on paper but in realty, he is the person behind the Company and he calls the shots.

(Emphasis Supplied)

7 Therefore, in the circumstances, it is a fit case to direct the official liquidator, who is already appointed as provisional liquidator and is hereby directed, to take physical possession of all the assets, books and records of the company forthwith. The

Company, its Directors including ex-directors of the Company, Managers, officials and staff of Shri Sunil Mantri in particular are directed not to create any third party right or encumber or deal with any of the assets or properties, movable and immovable of the company.

9 Shri Agarwal, Advocate states that Shri Sunil Mantri informed him that he is going to leave the country soon and he will not pay any of the creditors. Shri Agarwal to file an affidavit to that effect within one week from today.

(Emphasis Supplied)

10. Learned Counsel submits that the order of injunction on Applicant's travel is due to the utterly dishonest and contemptuous conduct of the Applicant which can be seen from the judicial notice that this Court has taken in Paragraph 5 of the said order as quoted above.

11. Learned Counsel further submits that the Applicant has been an obstacle in the entire liquidation process by his non-cooperation. He also refers to Exhibit-E (Page No.93) to the reply of the Official Liquidator to submit that though the liquidation process commenced in the year 2016, the Applicant has failed and neglected to furnish any of the information / documents referred to therein. Learned Counsel draws the attention of this Court to the order

dated 20th February, 2017 and in particular, Paragraph No.4 to submit that this Court has clearly recorded the *modus operandi* of the Applicant in duping creditors and his dishonest conduct abusing this Court's indulgence leaving no stone unturned in depriving the creditors of their dues. The said Paragraph 4 of the said order is quoted as under:

“4. In view of the above, I am in agreement with the aforesaid submissions made by the learned Advocate appearing for the Plaintiff and am convinced that as recorded in the order dated 8th January, 2016, the modus operandi of Shri Sunil Mantri is to resign from the Directorship of the Companies on paper but in reality be a person behind the Company and call the shots and be dishonest with the Court, abuse its indulgence and leave no stone unturned in depriving the creditors of their dues.” (Emphasis Supplied)

12. Learned Counsel would submit that the Applicant is responsible for four housing projects in the country and in all the projects, the flat purchasers are in doul drums ; hard earned moneys have been paid by the flat purchasers and not received anything in return. He would submit that more than 200 crores are outstanding.

13. Learned Counsel also submits that the presence of the

Applicant is required for the trial in the several cases that are pending and there is an apprehension that he may not return and that it may be difficult to find him if permitted to travel to Nepal. Learned Counsel would also submit that the requested travel is not for a close relative but for the wedding of a purported friend's daughter. He would submit that the requested travel is for a leisure and not for an emergency and ought not to be permitted.

14. Mr.Anil Agarwal, learned Counsel for the Respondents No.11, 12, 28, 29 and 30 joins issues with the arguments made by Mr.Prathamesh Kamat for the Official Liquidator and opposes the Applicant's Application for travel to Nepal. He would submit that since 2016, there has been no attempt by the Applicant to clear his dues. That the Applicant is not a respectable person as claimed. That he has changed five residences. He would also reiterate that the request to travel is not for a close relative, but a request to attend the destination wedding which could not have been at such a short notice as weddings are planned in advance. Learned Counsel would submit that with respect to the FIR filed in Delhi, the charge-sheet has been framed in the first week of May, 2022 and the Applicant would soon be required for trial. Learned Counsel would

also submit that the purported wedding card annexed to the Application is not a complete wedding card. He also submits that there is a difference in the signature of the Applicant in the copy of the passport annexed to the Interim Application and in the Petition.

15. It is submitted by Ms.Leena Sapra, learned Counsel for the Respondent No.15 that the signature of the Applicant in the copies of the cheques annexed in Writ Petition No.465 of 2014 is not matching with the signature in the copy of the passport annexed in last page of the Application.

16. It is also submitted that several Contempt Petitions have been admitted and notices have been issued against the Applicant and the Petitions are pending. Cases have been filed against Applicant for non payment of TDS which are also pending.

17. In rejoinder, Mr.Ponda, learned Senior Counsel would submit that the previous history of the Applicant cannot be the only apprehension to refuse the Applicant from going to Nepal. A lot has happened since 2016 and the approach should be different. He refers to two orders in support. Learned Senior Counsel refers to

order dated 13th March, 2020 in Chamber Summons No. 446 of 2019 in Summons for Judgment No. 23 of 2017 in Commercial Summary Suit No. 294 of 2016 and refers to Paragraph 5 thereof to submit that by the said order, this Court has lifted the restraint against the children of Applicant in relation to the Gift Deed dated 14th May, 2015. Learned Senior Counsel also refers to the order dated 2nd March, 2022 in Summons for Judgment No. 23 of 2017 in Commercial Summary Suit No. 294 of 2016 to submit that this Court has granted unconditional leave to the Applicant to defend the said Suit. He would submit that only when the Applicant received the wedding invitation card, that he came to know that he had to travel and therefore even though travel to Kathmandu does not require a passport, out of respect for this Court and to travel with dignity, he has made this Application and is willing to give any undertaking / security to this Court for his return to India.

18. The Official Liquidator, Respondent No.15 have in pursuance of this Court's order dated 30th May, 2022 filed their respective Affidavits opposing the Interim Application.

19. I have heard Mr.Abad Ponda, learned Senior Counsel for the Applicant, Mr.Prathamesh Kamat, learned Counsel for the Official Liquidator, Mr.Anil Agarwal, learned Counsel for the Respondents No. 11, 12, 28, 29 and 30 and Ms. Leena Sapra, learned Advocate for Respondent No.15. I have also perused the Affidavits filed by the Respondents as well as the previous orders passed by this Court and given my anxious consideration to the rival contentions.

20. This is a case where several petitions and claims have been filed by creditors / flat purchasers for claims against the Applicant and his colleagues running into crores of rupees. The Company in which the Applicant was director is in liquidation and the Official Liquidator has taken charge. From the orders passed and reproduced above, the dishonest, recalcitrant, non-cooperative and contemptuous conduct of the Applicant has been highlighted. Also a perusal of Paragraph 9 of the order dated 8th January, 2016 (as quoted above) clearly indicates that if permitted to leave the country, there would be no hope for the creditors. This Court has been informed that an Affidavit to this effect in terms of Paragraph 9 of the said order has also been filed in the Company Petition. It is pursuant to such conduct as recorded in the orders referred to

herein that all the directors of the Company and the Applicant were restrained from leaving the country until further orders. The Applicant was also directed to deposit his passport with the Prothonotary and Senior Master on 11th January, 2016 under advice to the Official Liquidator. Statedly, the said passport has expired and the Applicant is desirous of making an application for reissuance of the same, though it has been submitted during the course of arguments today that there is no requirement of a passport for travel to Nepal. It is observed from Paragraph 4 of the order dated 20th February, 2017 that the Applicant's conduct is dishonest and abusive of the orders of this Court. It is hard to digest that after having duped several creditors / flat purchasers, Applicant is desirous of traveling to Nepal for a wedding of the daughter of a purported friend. Had the requested travel been for the purposes of raising funds to repay the creditors / innocent flat purchasers, that would have been another matter. Any ways, the previously recorded conduct would also not inspire any such confidence to let the Applicant to leave the country. From the orders, it emerges that Applicant is a kingpin in the case. The very purpose of directing the Applicant to deposit his passport with this Court was to ensure that he is restrained from leaving the country.

Now, that the passport has expired and that no passport is required to travel to Nepal, raises further doubts as to whether the Applicant would ever return to India once he leaves the country particularly in view of the uncontroverted statement he has made to Shri.Agarwal as recorded in Paragraph 9 of the order dated 8th January, 2016 and in the Affidavit stated to be filed by Shri.Agarwal during the course of hearing today. Permitting the Applicant to travel to Nepal without any travel document recording his travel which normally would have been entered / registered at various check points to Nepal, would be too risky to permit a person with the recalcitrant conduct stated in the various orders of this Court to fly away. This in my view would be detrimental to the interests of creditors and flat purchasers waiting for justice for so many years.

21. Coming to the two decisions cited by learned Senior Counsel, I am of the view that neither of the decisions assist the case of the Applicant. The case of **Sultan Kamruddin Dharani V/s. Union of India & Ors. (supra)** was a case which involved discussion on bailable offences and the entitlement of the accused to be released on bail as a matter of right. The facts of this case are quite different. This is not a case where the Applicant has been arrested and bail

has been refused. The Applicant based on his dishonest, contumacious and recorded contemptuous conduct resulting in duping innocent and gullible flat purchasers and not paying a farthing to them leaving them in a lurch, has been injuncted / restrained by this Court from leaving the country and therefore, the said decision cannot be applied to the facts of this case.

22. With respect to the reliance of the learned Senior Counsel on the decision in the case of **Suresh Nanda V/s. C.B.I. (supra)**, the said decision was with respect to the Passports Act, 1967 and the refusal to go abroad prior to the enactment of the said Act where the decision of refusal to issue passport was struck down as invalid. This is a case where the power of a Court to restrain a person from leaving the country for dishonest conduct has been exercised and not a case where there has been a refusal to issue passport. In fact, Paragraph 17 of the said decision clarifies that the Hon'ble Supreme Court did not express any opinion on the merits of the case and were not deciding whether the passport can be impounded as a condition for grant of bail. Therefore, learned Senior Counsel's reliance on this case would not aid the Applicant's case.

23. The reference to the two orders of this Court dated 13th March, 2020 and 2nd May, 2022 by the learned Senior Counsel to submit that the order of this Court have progressed in favour of the Applicant since 2016 also does not impress the Court inasmuch as those are the orders passed by this Court in the specific facts and circumstances in accordance with law and cannot be compared with the situation at hand.

24. From the above discussion, it is observed that the circumstances which led to the passing of the aforementioned order of restraint on the Applicant from leaving the country, remain the same. The order of restraint has not been modified by any subsequent orders. The Applicant appears neither to have co-operated in the liquidation process nor made any payments to the creditors / flat purchasers. No record of any such payment to creditors / flat purchasers has been brought to my notice. Therefore, I see no reason to differ from or modify the order of restraint on the Applicant from leaving the country.

25. In the circumstances, I am not inclined to grant the request by the Applicant for travel to Nepal. The request is rejected. The

Interim Application is therefore dismissed with no order as to costs.

26. All concerned to act on an authenticated copy of this order.

(ABHAY AHUJA, J.)