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

**INTERIM APPLICATION NO.5867 OF 2025**  
**IN**  
**COMMERCIAL IP SUIT NO.580 OF 2022**

Khadi & Village Industries Commission ....Plaintiff

Versus

- 1) Shri Jaishukh N. Bhuta
- 2) Shri Naresh D. Bhuta
- 3) Shri Harish C. Shah
- 4) Shri Kantisen Shroff
- 5) Shri S.M. Deshpande
- 6) Shri Deewan M. Yusuf
- 7) Smt. Neha Sanghavi
- 8) Shri Sucheta Chogle
- 9) Shri Nitin N. Mehta
- 10) Shri Kamlesh J. Bhuta
- 11) Shri Dronacharya V. Khandare
- 12) Smt. Bina B. Dave
- 13) Shri Virendra R. Pandey
- 14) Board Of Trustees of Mumbai  
Khadi and Village Industries Association

....Defendants

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**WITH  
CONTEMPT PETITION NO.13 OF 2026  
IN  
COMMERCIAL IP SUIT NO.580 OF 2022**

Khadi & Village Industries Commission  
Versus

....Petitioner

- 1) Shri G. G. Parekh
- 2) Shri Naresh D. Bhuta
- 3) Shri Kabir Haresh Shah
- 4) Shri Kantisen Shroff
- 5) Shri Neha Sanghavi
- 6) Shri Nitin N. Mehta
- 7) Smt. Kamlesh J. Bhuta
- 8) Shri Dhronacharya V. Khandare
- 9) Shri Bina B. Dave
- 10) Shri Virendra R. Pandey.

....Defendants

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**Ms. Diva Arora** a/w. *Janhvi Chadha, Devyani Nath, Aishwarya Ambardekar & Saumya Pandey i/b. Bimal Rajsekhar, for the Plaintiff.*

**Mr. Rashmin Khandekar** a/w. *Anand Mohan, Atmaram Patade, Rahul Dubey & Shraddha Patil i/b. Atmaram Patade, for Defendant No.2.*

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**CORAM : SOMASEKHAR SUNDARESAN, J.**

**DATE : AUGUST 7, 2026**

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**JUDGEMENT:****Context and Factual Background:**

1. Interim Application No.5867 of 2025 (***“Interim Application”***) is an Application filed under Order XXXIX, Rule 2A of the Code of Civil Procedure, 1908 (***“CPC”***) filed in connection with alleged wilful circumvention of an injunction contained in an interim order dated December 14, 2022 (***“Injunction Order”***) passed by a Learned Single Judge of this Court in disposal of Interim Application (L) No.14308 of 2022.

2. The Interim Application has been filed by the original Plaintiff, Khadi & Village Industries Commission (***“KVIC”***), against Mumbai Khadi & Village Industries Association, the original Defendant (***“MKVIA”***), and all the individuals who are members of the Board of Trustees (***“Trustees”***) of MKVIA. Contempt Petition No. 13 of 2026 (***“Contempt Petition”***) has also been filed by KVIC against some of the Trustees alleging further violation of the same Injunction Order. The individuals named in the two proceedings as Respondents are not identical – the Interim Application has listed the trustees along with the President, Secretary and Treasurer of MKVIA while the Contempt Petition is against ten individuals. For convenience, the term “Trustees” would collectively refer to all the Respondents in the two proceedings.

3. Both proceedings were clubbed and taken up for final hearing, by consent of the parties. This common judgement will dispose of both proceedings.

4. The protection granted in the Injunction Order, in respect of which violation is alleged in the captioned proceedings, reads thus:

24. In view of the above, the interim application is allowed in terms of prayer clauses (a) and (b), which read as follows: -

"(a) Pending the hearing and final disposal of the suit, an injunction restraining the Defendant its partners, servants, representatives, agents and all others acting for and on its behalf from manufacturing, selling, offering for sale, advertising directly or indirectly or providing any kind of goods and / or services under the mark 'KHADI', either as a word or as part of its trademark or [logo image not extracted] including but not limited to the logo and / or any mark identical or deceptively similar to the Plaintiff's registered KHADI trademarks and Charkha logos, and/or using the mark KHADI or a deceptively similar variant thereof as a part of its trade name / business name including but not limited to 'Khadi Gramodyog Bhandar', 'Mumbai Khadi & Village Industries Association' and 'Mumbai Khadi Gramodyog Sandh Sachalith' or any other mark which, amounts to an infringement of the Plaintiff's registered trademarks;

(b) Pending the hearing and final disposal of the suit, an injunction restraining the Defendant, its partners, servants, representatives, agents and all others acting for and on their behalf from manufacturing, selling, offering for sale, advertising, directly or indirectly providing any kind of goods and / or services under the trademark 'KHADI' either as a word or as a part of any of its trademark, trade name or logos including but not limited to the logo [logo image not extracted], and / or any mark identical or deceptively similar to the Plaintiff's KHADI trademarks and Charkha logos, in a manner as may

*amount to passing off of the Defendant's goods, services and business as those of the Plaintiffs.*

*[Emphasis Supplied]*

5. The logo of KVIC essentially features a *Charkha* (the spinning wheel for hand-spun yarn, made popular by Mahatma Gandhi), encircled by the full name of KVIC written within two concentric circles. A plain reading of the relief granted in the Injunction Order would indicate MKVIA was restrained from, among others, selling, offering for sale and indeed advertising, directly or indirectly, any kind of goods and services under the mark “Khadi” either as a word or as a part of any trademark or logo. The restraint included a prohibition on use of any logo or mark identical or deceptively similar to KVIC’s registered ‘Khadi’ trademark and *Charkha* logo or any deceptively similar variant, as part of the trade name or business name. The restraint also covered the use of the name ‘*Mumbai Khadi and Village Industries Association*’.

6. It is in this context that the acts of violation and contempt as alleged in both the Interim Application as well as the Contempt Petition need to be considered. These are summarized below:

A] In May 2023, just within five months of the Injunction Order, a *Khadi Mahotsav 2.0* (“**Mahotsav**”) was organised over three days, in the

MKVIA's premises. This was the second edition of a Khadi trade fair that MKVIA had held the previous year, just months before the Injunction Order. The promotional material and indeed the flagship banner of the event carried the names of Atharva Foundation and Atharva School of Fashion and Arts (**"Atharva School"**) and MKVIA, as the organisers of the event. The words "यांच्या संयुक्त विद्यमाने आयोजित" (meaning "jointly under the aegis of") followed the names of Atharva School and MKVIA. The conduct of the *Mahotsav* under the aegis of MKVIA is assailed in the Interim Application under Order XXXIX Rule 2A of CPC as an act of wilful disobedience of the Injunction Order;

B] In the Contempt Petition, the acts of contempt against the Injunction Order alleged are:

- (i) The execution of an Agreement for Sale dated March 30, 2025 (**"Agreement for Sale"**) was executed between MKVIA and a company called Rishabraj Estate Developers Pvt. Ltd. (**"Rishabraj"**) to sell certain immovable property of MKVIA to Rishabraj. The Agreement for Sale uses the full name of MKVIA as the entity name. The sale was reported in the newspapers. According to KVIC, even the use of the MKVIA name as an entity

name having been prohibited by the Injunction Order, makes the execution of the Agreement for Sale a contemptuous act; and

(ii) The name of MKVIA continues to be found in a business directory listing, which is assailed as a contemptuous act by MKVIA holding itself out and marketing itself in its original name as a Khadi garment shop.

**Injunction Order:**

7. A quick overview of the context in which the Injunction Order was passed, would be appropriate, in order to appreciate the context and purpose underlying the Injunction Order so that the captioned Interim Application and Contempt Petition can be appropriately dealt with. The Learned Single Judge of this Court noted that KVIC had been formed by special legislation, namely, Khadi & Village Industries Commission Act, 1956 (***“KVIC Act”***), which contains an inherent definition of the term “Khadi”. The KVIC Act provided for the establishment of KVIC to carry out various statutory functions in furtherance of the development of Khadi and Village Industries across India. The word “Khadi” and the depiction of the *Charkha* logo were noticed as being KVIC's marks and devices, which were also duly registered.

8. The parties have had a history of litigation. Suit No.213 of 2021 (***Suit 213***) was filed by KVIC seeking reliefs against MKVIA on the ground of infringement and passing off by continued use of “Khadi” despite initial suspension and subsequent withdrawal of the Khadi certification issued to it by KVIC. The products sold by MKVIA were said to not conform to stipulated statutory Khadi standards. Suit 213 was withdrawn on the basis of an undertaking given by MKVIA that it would not sell any products called, labelled or described as “Khadi” and that no product would be sold as such, without due certification from KVIC.

9. Another Suit No.282 of 2022 (***Suit 282***) for recovery and possession of the premises from which MKVIA is operating its store and for damages, is also pending and appears to have been transferred to the City Civil Court. MKVIA had contended before the Learned Single Judge that even before the KVIC Act was legislated to establish KVIC, MKVIA had been using the ‘Khadi’ mark right since 1946. MKVIA objected to reliance on the KVIC Act in a suit based on alleged infringement and passing off. MKVIA also contended that the definition of the term “Khadi” in the KVIC Act concerned only cloth and no other products.

10. The Learned Single Judge noted that two *kurtas* purchased from MKVIA's outlet had been identified by it as “Khadi”. The *kurtas* were also

described as “Khadi” in invoices issued for the sale, despite the solemn undertaking given in disposal of Suit 213. MKVIA contented that the undertaking not to sell Khadi products ought to be read in the context of the pleadings in Suit 213, and could not be read as an absolute unconditional undertaking out of context of those proceedings. MKVIA confirmed that it was indeed selling textile products, but asserted compliance with the undertaking given to Court, by way of an explicit and specific disclaimer displayed at its outlets, namely, that MKVIA does not sell any Khadi products or under the Khadi mark.

11. The Learned Single Judge disagreed after examining the pleadings in Suit 213. Noting KVIC’s statutory role; the withdrawal of recognition to MKVIA; the application by MKVIA for registering the word “Khadi” only in 2014; that the garments sold by MKVIA indeed contained the word “Khadi” despite not having certification; and MKVIA depicting the *Charkha*, which is similar to the device mark of KVIC, the Learned Single Judge passed the Injunction Order. On the face of it, the Learned Single Judge held, MKVIA could not dispute that the prominent, essential, fundamental and substantial features of the registered marks of KVIC had been copied in the impugned marks of MKVIA.

12. Finding a strong *prima facie* case of infringement and passing off, and also examining the pleadings in Suit 213 to see the context of the terms of disposal of those proceedings, the Learned Single Judge was satisfied that the undertaking given in disposal of those proceedings had been violated, and that MKVIA's attempts to mislead customers by making them believe that its products were "Khadi" products, necessitated intervention. The Learned Single Judge found MKVIA's defence to be dishonest and false and that the "Khadi" word was being used in the teeth of the undertaking given to Court.

13. In that round, MKVIA had contended that KVIC ought to have moved an application under Order XXXIX Rule 2A of the CPC in the disposed of Suit 213, and not file a fresh suit invoking intellectual property rights. The Learned Single Judge held that availability of another alternative would not mean that MKVIA's dishonesty can be ignored when considering an appropriate interim relief in the present intellectual property Suit.

**Analysis and Findings:**

14. I have heard at length, Ms. Diva Arora, Learned Advocate on behalf of KVIC and Mr. Rashmin Kandekar, Learned Advocate on behalf of MKVIA, and with their assistance, I have examined the material on record. Each of the three alleged acts of violation is dealt with below.

**Khadi Mahotsav 2.0:**

15. What is abundantly clear from the material on record is that the *Mahotsav* was the second edition of a trade fair for sale of Khadi products. The first edition had been held a few months before the Injunction Order and the *Mahotsav* was held within months of the Injunction Order. The *Mahotsav* was held at the very premises of MKVIA. The first edition had been identically jointly organized under the aegis of Atharva School and MKVIA. The *Mahotsav* too, held after and despite the Injunction Order, was held similarly under the aegis of Atharva School and MKVIA.

16. Mr. Khandekar's contention that KVIC has not demonstrated a real violation is difficult to accept. According to him, KVIC has to prove that the *Mahotsav* was indeed organised by MKVIA despite the event having been held on its premises with a declaration that it was the joint organiser. This is because MKVIA has denied knowledge of the *Mahotsav* having been held in its own premises and having been held out as having been organised by MKVIA. Mr. Khandekar would invoke the criminal law standard of proof beyond reasonable doubt, to contend that demonstrating that the event was actually held on MKVIA's premises with its knowledge must be discernible from the

Interim Application, failing which, the Interim Application is not even maintainable.

17. When an interim order passed under Order XXXIX Rule 1 and 2 of the CPC explicitly restrains a party from advertising and promoting sale, directly or indirectly, using the word “Khadi” and the *Charkha* symbol, it would follow that the interim order indeed contains a discernible and clear obligation. There is no contest that the Injunction Order was not set aside or stayed in a challenge, and that it was binding on MKVIA. It would follow that MKVIA, having organised the earlier edition of the *Mahotsav* just before the Injunction Order ought to have been mindful of what it was not supposed to do, and ought to have re-arranged its affairs and dissociated itself from future conduct of the event. Instead, within months of the Injunction Order, the *Mahotsav* was held, depicting MKVIA as the joint organiser and that too in the very premises of MKVIA.

18. The Injunction Order itself came to be passed in view of the blatant violation of an undertaking given to Court in Suit 213. The manner of defence by MKVIA about the *Mahotsav* speaks volumes about its approach to obedience. MKVIA would have the Court believe that it was completely ignorant about the *Mahotsav* and its promotional content – it matters little that the event was held in its own premises over a spread of three days and

that too for the sale and promotion of Khadi products, in good time for the Injunction Order to be well understood, digested and internalised by MKVIA. Mr. Khandekar has cited a plethora of case law invoking the law declared under the Contempt of Courts Act, 1971 (“**CC Act**”), to contend that the captioned Interim Application is not even maintainable.

19. Such a stance has to just be stated to indicate how unreasonable and unbelievable it is. Even a plain viewing of the promotional material and the banner of the event would show that the event was in flagrant breach of the Injunction Order. The attempt at pitching the case as a simple case of an inadvertent mistake in not noticing that Atharva School had wrongly projected MKVIA as a co-host does not inspire confidence.

20. The Interim Application is filed under Order XXXIX Rule 2A to bring to this Court’s attention the disobedience of the Injunction Order. Mr. Khandekar would point to correspondence exchanged between the parties after the *Mahotsav* concluded and he would submit that MKVIA had already denied knowledge of the *Mahotsav*. He would submit that the Interim Application has been filed only to harass MKVIA. Once there is a denial by MKVIA, the onus, he would contend, is on KVIC to prove beyond reasonable doubt that MKVIA had knowledge of the event, particularly bearing in mind that the Order XXXIX Rule 2A jurisdiction is a quasi-criminal jurisdiction.

21. Mr. Khandekar would also submit that MKVIA's advocates replied to KVIC's advocates' legal notice dated June 15, 2023, marking Atharva School in copy, but KVIC's reply to that reply deliberately did not copy Atharva School. In my view, nothing turns on this count. Atharva School was not restrained by the Injunction Order; MKVIA was restrained.

22. A party restrained by an interim order must take the import of the restraint seriously and ensure compliance. Mr. Khandekar would expansively rely on the Supreme Court's decision in *U.N. Bora*<sup>1</sup>, but it must be remembered that this decision dealt with vicarious liability of directors of a body corporate accused of contempt under the CC Act. This was not a case under Order XXXIX Rule 2A of the CPC. I am afraid this defence of non-maintainability is simply unacceptable.

**Contempt and Order XXXIX Rule 2A:**

23. The core basis of linking the jurisdiction under Order XXXIX Rule 2A of the CPC and the Contempt of Courts Act, 1971 is the Supreme Court's ruling in *FCP*<sup>2</sup>, the relevant extracts of which, read thus:

38. *The power exercised by a court under Order 39 Rule 2-A of the Code is punitive in nature, akin to the power to punish for civil contempt under the Contempt of Courts Act, 1971. The person who complains of disobedience or breach has to*

<sup>1</sup> *Dr. U.N. Bora, Ex. Chief Executive Officer v. Assam Roller Flour Mills Association & Anr.* – **(2022) 1 SCC 101**

<sup>2</sup> *Food Corporation of India v. Sukh Deo Prasad* – **(2009) 5 SCC 665**

clearly make out beyond any doubt that there was an injunction or order directing the person against whom the application is made, to do or desist from doing some specific thing or act and that there was disobedience or breach of such order. While considering an application under Order 39 Rule 2-A, the court cannot construe the order in regard to which disobedience/breach is alleged, as creating an obligation to do something which is not mentioned in the "order", on surmises, suspicions and inferences. The power under Rule 2-A should be exercised with great caution and responsibility.

39. It is shocking that the trial court had entertained an application under Order 39 Rule 2-A from a person who was not entitled to file the application, has accepted an interpretation of the order which does not flow from the order, and has created a liability where none existed, resulting in attachment of the assets of FCI to an extent of more than Rs.1.12 crores. The order dated 15-12-2004 cannot be supported or sustained, under any circumstances.

[Emphasis Supplied]

24. What the Supreme Court has ruled is that one cannot extrapolate and read into the interim order an obligation to do or refrain from doing something that is not even mentioned in the order. Surmise, suspicion and conjecture cannot lead to inferring obligations that are not actually spelt out in an interim order for an action to lie under Order XXXIX Rule 2A of the CPC. The Supreme Court clearly stated that the jurisdiction under Order XXXIX Rule 2A is *akin* to the power to *punish for civil contempt*. This statement in *FCI* was the basis to hold that one cannot infer an obligation in the interim order to invoke Order XXXIX Rule 2A of the CPC and that it is necessary to

establish that the interim order indeed contains an obligation that has been violated.

25. On facts, *FCI* dealt with a party that was not even a beneficiary of the interim order, seeking to enforce an obligation that was not even discernible from the interim order. The ruling has to be examined in that light. The need for absence of any doubt as declared by the Supreme Court, clearly relates to doubts about the existence of an obligation in the interim order. If the obligation is evident, the proceedings under order XXXIX Rule 2A would lie and that too at the behest of the beneficiary of the interim order.

26. In the facts of this case, it is very clear that the Injunction Order clearly contains an obligation that MKVIA must not use the Khadi mark or the *Charkha* symbol, directly or indirectly, in connection with sale and promotion of products purporting to be Khadi. There is no doubt as to what MKVIA was required to refrain from doing. Yet, the *Mahotsav* was held on MKVIA's own premises over three days, replete with promotional material that documented that the *Mahotsav* was being held under the aegis of MKVIA jointly with Atharva School. The conduct of the event was consistent with past practice that preceded the Injunction Order, and that too, within months of the Injunction Order. Therefore, to my mind, it is quite discernible that there is a clear violation of the Injunction Order by MKVIA.

27. Whether Order XXXIX Rule 2A being “*akin*” to civil contempt would automatically partake the same character of the contempt jurisdiction for every single purpose of the provision is a question to consider. Often the similarity of context in which the two jurisdictions operate is used to conflate the Order XXXIX Rule 2A jurisdiction into the contempt jurisdiction. In my opinion, such conflation is misplaced. The evident legislative policy underlying Order XXXIX Rule 2A is to create a strong disincentive for disobedience of an interim order passed under Order XXXIX Rule 1 and Rule 2, and to confer on civil courts, the powers to ensure compliance with the interim order. It is a jurisdiction available to every civil court as opposed to the powers to punish for contempt being conferred on High Courts as Courts of Record under Article 215 of the Constitution of India read with the CC Act.

28. It is well settled in a catena of judgements that the standard of proof that is applicable in the contempt jurisdiction is the standard of proof beyond reasonable doubt since the term “civil contempt” is defined distinctly under Section 2(b) of the CC Act as wilful disobedience, which has been interpreted to require “evil intention” and *mala fides*. Orders passed under Order XXXIX Rule 2A taking action and also refusing to take action are appealable under Order XLIII Rule 1(r) of the CPC as a matter of statutory right. In sharp contrast, orders where the courts of record refrain from exercising the contempt jurisdiction to impose punishment have been declared as not being

appealable under Section 19 of the CC Act. Decisions of the Supreme Court have repeatedly held that only orders imposing a punishment are appealable. The first such position was declared by a three-judge bench of the Supreme Court in **Taneja**<sup>3</sup>, and this has been followed by a catena of judgements thereafter<sup>4</sup>. Therefore, while both jurisdictions relate to violation of court orders, the substance and nuance of the scope of respective jurisdictions cannot be said to be identical for any and every facet of their operation.

29. The upshot of the contentions on behalf of MKVIA is that there is no distinction whatsoever between the two jurisdictions, and every statement made in any context of the contempt jurisdiction would necessarily and absolutely apply to the Order XXXIX Rule 2A jurisdiction. In my opinion, merely because the context for both jurisdictions is the violation of a court order, it cannot be said that every nuance and every requirement applicable in the extraordinary and lightly-regulated contempt jurisdiction vested solely in

<sup>3</sup> *DN Taneja v. Bhajan Lal* – (1988) 3 SCC 26

<sup>4</sup> In the treatise *The Law of Contempt* (Sixth Edition, by Samaraditya Pal) it is pointed out that a Division Bench (*Ashoke Rai vs. Ashoke Arora* – 96 CWN 278) and a Full Bench (*Arun Kumar Gupta v. Jyoty Prasanna Das Thakur* – 1996 (2) CLJ 89) of the Calcutta High Court dealt with **Taneja** by pointing out that an earlier three-judge Bench of the Supreme Court in **Barada Kanta Mishra** (*Barada Kanta Mishra v. Mr. Chief Justice GK Mishra, CJ of Orissa High Court* – (1975) 3 SCC 53) had a contrary view. The Calcutta High Court followed the earlier prevailing contrary view.

Regardless, even subsequent judgements of the Supreme Court have not noticed the analysis in the Calcutta view and even a subsequent three-judge Bench of the Supreme Court has yet again, in **Parihar** (*JS Parihar v. Ganpat Duggar* – (1996) 6 SCC 291) has taken a view that only an order of punishment would be appealable, which is the view in **Taneja**.

In an appropriate case, it would be for the Supreme Court to examine the 1975 view in **Barada Kanta Mishra** and see if what has come to be the declared law since **Taneja**, needs to be revisited.

Courts of Record would automatically apply in absolute terms to a more deeply-regulated jurisdiction under Order XXXIX Rule 2A of the CPC, which is exercisable by every civil court including those that are not Courts of Record.

30. It is in that context that one must read the judgements relating to the contempt jurisdiction that are pressed into service by Mr. Khandekar. It is well settled that the standard of proof that the Supreme Court has declared as applicable to the contempt jurisdiction is the standard of beyond reasonable doubt. Therefore, there can be no quarrel with citing judgements such as **Anil Ratan Sarkar**<sup>5</sup>, and **Rama Narang**<sup>6</sup> in the contempt jurisdiction. But to invoke them for application in the Order XXXIX Rule 2A jurisdiction on the basis of the law declared in **FCI**, would need one to examine what **FCI** really declared.

31. The true test is to examine (i) whether there is an interim order in existence; (ii) whether there is a discernible obligation cast in the interim order (as declared in **FCI**); (iii) whether there has been a violation of such obligation; and (iv) if these questions are answered in the affirmative based on the material on record, whether the power to attach property or the power to impose civil imprisonment, which are the measures provided for in Order XXXIX Rule 2A of the CPC, should be exercised.

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<sup>5</sup> *Anil Ratan Sarkar & Ors. v. Hirak Ghosh & Ors.* – (2002 4 SCC 21)

<sup>6</sup> *Rama Narang v. Ramesh Narang & Ors.* – (2021 15 SCC 338)

32. Needless to say, a civil court may well arrive at a conclusion, after following these tests, that there has been a violation. However, the court may direct appropriate remedial measures under Section 151 of the CPC, taking a view that it is not necessary to attach property or to send the violator to civil prison. It would be appropriate to extract Section 151 of the CPC:

*"Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court."*

*[Emphasis Supplied]*

33. The Court has the inherent power to make such orders as necessary to meet the ends of justice. This will include the power to direct remedial measures to ensure that the Injunction Order is complied with and not violated with impunity, contending that the material that speaks for itself is inadequate to even maintain proceedings under Order XXXIX Rule 2A of the CPC. This can be achieved even while being very cautious in applying the tests outlined above, as required under the law declared in **FCI**. To routinely conflate **FCI** (which requires the Court not to be reckless as the Supreme Court had found to be the case – by an application of a person without locus being entertained and that too in respect of an obligation not mentioned in the interim order), with an inexorable requirement to apply the criminal standard of proof beyond reasonable doubt to even consider if there is a violation of an

evidently explicit obligation, would undermine the very legislative policy underlying Order XXXIX Rule 2A.

34. The evident legislative policy objective of Order XXXIX Rule 2A of the CPC is to empower civil courts to use their coercive power to ensure that clearly discernible obligations contained in interim orders are not violated with impunity and to place in their hands a serious power of attachment and auction of property and even civil imprisonment, to ensure that the sanctity of the rule of law in conduct of suits is meaningfully maintained.

35. The provisions of Order XXXIX Rule 2A read thus:

*2A. Consequence of disobedience or breach of injunction –*

*(1) In the case of disobedience of any injunction granted or other order made under rule 1 or rule 2 or breach of any of the terms on which the injunction was granted or the order made, the Court granting the injunction or making the order, or any Court to which the suit or proceeding is transferred, may order the property of the person guilty of such disobedience or breach to be attached, and may also order such person to be detained in the civil prison for a term not exceeding three months, unless in the meantime the Court directs his release.*

*(2) No attachment made under this rule shall remain in force for more than one year, at the end of which time, if the disobedience or breach continues, the property attached may be sold and out of the proceeds, the Court may award such compensation as it thinks fit to the injured party and shall pay the balance, if any, to the party entitled thereto.*

*[Emphasis Supplied]*

36. In *Samee Khan*<sup>7</sup>, which is relied upon by Ms. Arora, the Supreme Court has declared that the attachment of property under Order XXXIX Rule 2A is in aid of selling the property if the disobedience continues for beyond one year to compensate the beneficiary of the interim order. In other words, the attachment is in aid of exercising coercive power to ensure compliance with the interim order. The power to direct civil imprisonment is in addition to the aforesaid power. Both measures are coercive powers only to aid and ensure compliance with the interim order.

37. Further, the relevance of providing for the additional measure of imprisonment is that it would not let a person who has no property to be attached, to go scot-free by rendering such person immune from any consequence for violating the Court's interim order. If no property is capable of being attached, the disincentive of imprisonment is stipulated to procure compliance with the interim order passed under Order XXXIX Rule 1 and Rule 2 of the CPC. This objective of the jurisdiction under Order XXXIX Rule 2A must not be confused with a punitive power under the contempt jurisdiction.

***Surendranath and Amazon:***

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<sup>7</sup> *Samee Khan v. Bindu Khan* – (1998) 7 SCC 59

38. The following extracted observations of the Supreme Court in ***Surendranath***<sup>8</sup> (not cited by either side) are noteworthy, for its linkage between the two jurisdictions:

7. *For finding a person guilty of wilful disobedience of the order under Order 39 Rule 2-A CPC there has to be not mere “disobedience” but it should be a “wilful disobedience”. The allegation of wilful disobedience being in the nature of criminal liability, the same has to be proved to the satisfaction of the court that the disobedience was not mere “disobedience” but a “wilful disobedience”. As pointed out earlier, during the second visit of the Commissioner to the appellant's shop, tea cakes and masala cakes were being sold without any wrappers/labels. The only thing which the Commissioner has noted is that “non-removal of the hoarding” displayed in front of the appellant's shop for which the appellant has offered an explanation which, in our considered view, is acceptable one.*

8. *In the facts and circumstances of the case, we do not find any “wilful disobedience” on the part of the appellant warranting invoking Order 39 Rule 2-A CPC and sentencing the appellant to one week's civil imprisonment.*

*[Emphasis Supplied]*

39. The view in ***Surendranath*** along with the oft-quoted Paragraph 38 of ***FCI*** (extracted above) was pointed out to another bench of the Supreme Court in ***Amazon***<sup>9</sup> – the following extracts are noteworthy:

60. Mr Nankani cited the judgment of *Food Corpn. of India v. Sukh Deo Prasad* [*Food Corpn. of India v. Sukh Deo Prasad*, (2009) 5 SCC 665 : (2009) 2 SCC (Civ) 639], in which he relied upon the following observations of this Court : (SCC p. 677, para 38)

<sup>8</sup> *UC Surendranath v. Mambally's Bakery* – (2019) 20 SCC 666

<sup>9</sup> *Amazon.com NV Investment Holdings LLC v. Future Retail Ltd. & Ors.* – (2022) 1 SCC 209

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He also relied upon the judgment of U.C. Surendranath v. Mambally's Bakery [U.C. Surendranath v. Mambally's Bakery, (2019) 20 SCC 666] , and para 7 in particular, which states : (SCC p. 668)

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61. It is one thing to say that the power exercised by a court under Order 39 Rule 2-A is punitive in nature and akin to the power to punish for civil contempt under the Contempt of Courts Act, 1971. It is quite another thing to say that Order 39 Rule 2-A requires not “mere disobedience” but “wilful disobedience”. We are prima facie of the view that the latter judgment in adding the word “wilful” into Order 39 Rule 2-A is not quite correct and may require to be reviewed by a larger Bench. Suffice it to say that there is a vast difference between enforcement of orders passed under Order 39 Rules 1 and 2 and orders made in contempt of court. Orders which are in contempt of court are made primarily to punish the offender by imposing a fine or a jail sentence or both. On the other hand, Order 39 Rule 2-A is primarily intended to enforce orders passed under Order 39 Rules 1 and 2, and for that purpose, civil courts are given vast powers which include the power to attach property, apart from passing orders of imprisonment, which are punitive in nature. Orders passed under Section 17(2) of the Arbitration Act, using the power contained in Order 39 Rule 2-A are, therefore, properly referable only to the Arbitration Act. Neither of the aforesaid judgments are an authority for any proposition of law to the contrary.

[Footnote to this paragraph in the Judgement – extracted here]:

When an order for permanent injunction is to be enforced, Order 21, Rule 32 provides for attachment and/or detention in a civil prison. Orders that are passed under Order 21, Rule 32 are primarily intended to enforce injunction decrees by methods similar to those contained in Order 39 Rule 2-A. This also shows the object of Order 39 Rule 2-A is primarily to enforce orders of interim injunction.

[Emphasis Supplied]

40. The view in *Amazon* is that the legislature did not introduce the term “wilful” in Order XXXIX Rule 2A as it has in Section 2(b) of the CC Act. Therefore, doubts were expressed about the observation in this regard in *Surendranath*. The Supreme Court did not actually make a reference to a larger bench since it was dealing with disobedience of an interim order passed by an Arbitral Tribunal under Section 17 of the Arbitration and Conciliation Act, 1996, although that provision was stated to be referable to Order XXXIX Rule 2A of the CPC.

41. One must examine the observations in *Surendranath* in the context of what was under consideration in that case. The party accused of violating the interim order had been sentenced to civil imprisonment for a hoarding not having been removed to comply with the interim order. The Supreme Court set aside the imprisonment noting the efforts taken to comply with the interim order and how after the commissioner’s visit, compliance was indeed completed. The portions of *Surendranath* extracted above are therefore not the ratio about the standard of proof for maintainability of an application under Order XXXIX Rule 2A but was analysis on which the decision not to uphold the imprisonment was based.

### **Interpretation of Judgements vs. Statutes:**

42. It must be remembered that the judgements in *FCI* and *Surendranath* must also be read bearing in mind principles of interpretation of judgements as opposed to principles on interpretation of statute. The principles in this regard may be iterated in reliance on *Bahadur Singh*<sup>10</sup>, where the Supreme Court held as follows:

*"9. The courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of the courts are neither to be read as Euclid's theorems nor as provisions of the statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of the courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes. In London Graving Dock Co. Ltd. v. Horton [1951 AC 737 : (1951) 2 All ER 1 (HL)] Lord MacDermott observed: (All ER p. 14 C-D) "The matter cannot, of course, be settled merely by treating the ipsissima verba of Willes, J., as though they were part of an Act of Parliament and applying the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished judge...."*

*[Emphasis Supplied]*

<sup>10</sup> *Union of India v. Major Bahadur Singh* – (2006) 1 SCC 368

43. In *Ravi Ranjan*<sup>11</sup>, what a judgement is a precedent for, is well summarised by the Supreme Court in the following words:

41. *It is well settled that a judgment is a precedent for the issue of law that is raised and decided. The judgment has to be construed in the backdrop of the facts and circumstances in which the judgment has been rendered. Words, phrases and sentences in a judgment, cannot be read out of context. Nor is a judgment to be read and interpreted in the manner of a statute. It is only the law as interpreted by in an earlier judgment, which constitutes a binding precedent, and not everything that the Judges say.*

*[Emphasis Supplied]*

44. *FCI* spoke of “any possible doubt” in the context of existence of the obligation that is said to have been violated, and not about the standard of proof to be deployed to maintain an application under Order XXXIX Rule 2A of the CPC. Indeed, even in cases of criminal prosecution, the criminal standard of proof is one of proof *beyond reasonable doubt* and not of a standard of *beyond every possible doubt*. The doubts have to be reasonable for a criminal charge not to stick. Even in offences involving capital punishment, conviction and sentences can be handed out based on circumstantial evidence, which would of course have to be assessed by the standard of proof beyond reasonable doubt.

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<sup>11</sup> *Ravi Ranjan Developers Pvt. Ltd. v. Aditya Kumar Chatterjee* – 2022 SCC OnLine SC 568

45. Even in the criminal contempt jurisdiction, in *Rajendra Sail*<sup>12</sup>, the Supreme Court has taken a view that “preponderant circumstances” which, when examined objectively, would lead to the conclusion that a speech that was contemptuous was made. In *National Fertilizer*<sup>13</sup>, this was explained further to mean that the criminal law standard of proof beyond reasonable doubt in the contempt jurisdiction would not be disturbed by taking a preponderant view of circumstances, which essentially means that even in criminal contempt, circumstantial evidence can be brought to bear to convict and sentence a crime, subjecting such evidence to proof beyond reasonable doubt.

**Application to Facts:**

46. In the facts of the matter in hand, as explained above, evidently, the *Mahotsav* was held at the premises of MKVIA over three days, with clearly documented evidence pointing to the event having been held under the aegis of Atharva School and MKVIA. The defence that MKVIA was unaware of how a three-day event directly in conflict with the Injunction Order was held in its own premises, is a mere bald assertion that does not inspire any confidence. KVIC has discharged its burden by demonstrating how the *Mahotsav* was held, where it was held, and what the world at large was informed about who was

<sup>12</sup> *Rajendra Sail v. MP High Court Bar Association* – (2005) 6 SCC 109

<sup>13</sup> *National Fertilizers Ltd. v. Tuncay Alankus* – (2013) 9 SCC 600

hosting the event. In my view, it is quite clear by a very high degree of preponderance of probability (and in fact, even beyond reasonable doubt for that matter) that the *Mahotsav* held on MKVIA's own premises within months of the Injunction Order, in the same format and method as it had been held a few months prior to the Injunction Order, clearly demonstrates that MKVIA had utter disregard about compliance with the evident obligation in the Injunction Order. MKVIA went on to do exactly what it wanted to do regardless of Injunction Order.

47. The *Mahotsav* was not some generic event such as a family wedding or some festival unconnected to the Khadi industry, conducted by some other third party. The *Mahotsav* is evidently held in MKVIA's own premises, clearly depicting the word "Khadi" and the *Charkha* symbol, with a clear assertion of having been organised by MKVIA. Therefore, in my opinion on the face of it, the conduct shows wilful disregard of implications of the Injunction Order, such that invocation of Order XXXIX Rule 2A is indeed justified.

48. Mr. Khandekar's reliance on ***Franco-Indian***<sup>14</sup> to refuse to look outside the contents of the pleadings in the Order XXXIX Rule 2A Application or on ***Trubridge***<sup>15</sup> to point to the criminal standard of proof being applicable under

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<sup>14</sup> *Franco - Indian Pharmaceuticals Pvt. Ltd. v. Gangadeep Garg & Anr. – Judgement dated March 24, 2025 in Interim Application (L) No. 4272/2024 in Interim Application (L) 30482/2023 in CIP Suit No. 21/2024*

<sup>15</sup> *Trubridge Healthcare Private Limited & Anr. v. Ashish Yellapantu – Order dated January 29, 2025 in Interim Application (L) No. 35184 of 2024 in COMIP Suit (L) No. 21967 of 2024*

the CPC, does not turn the needle. These judgements would show that conjecture, surmise and suspicion, however strong, cannot replace proof. There can be no quarrel with that proposition even when applying the civil standard of proof i.e. preponderance of probabilities, because even with that standard of proof, there is no room for suspicion, however strong, replacing proof.

49. I am afraid, the approach canvassed by Mr. Khandekar does not at all lend itself to acceptance. It is well known that even in criminal trials and proceedings, circumstantial evidence has indeed led to conviction even leading to capital punishment. Circumstantial evidence has to be assessed and the invocation of a criminal standard of proof cannot be an excuse to contend that no allegation of contempt can be brought to bear with the evidence of the nature found in the material on record. The contention about Atharva School being dropped in the reply or Atharva School not being made a party in the contempt proceedings does not lend itself to any consideration inasmuch as Atharva School has not been subjected to an injunction in the Injunction Order. The party restrained by the Injunction Order is MKVIA.

50. By all accounts, MKVIA's association with the *Mahotsav* is writ large in the material on record. The history of conduct in the matter only points to the need for which the Injunction Order was found necessary by a Learned Single

Judge of this Court. Once the Injunction Order had been passed, it was MKVIA's duty to refrain from holding the *Mahotsav* previously held just months prior to the Injunction Order.

51. The Respondents are Trustees and office bearers of MKVIA. The Injunction Order clearly covered all the partners, servants, representatives and agents acting on their behalf from using the “Khadi” name and the *Charkha* logo in connection with advertising directly or indirectly the sale and promotion of any goods and services under the mark ‘Khadi’ either as a word or as a part of the trademark or logo. The logo of the *Mahotsav* itself would show that the event was titled with the use of the word ‘Khadi’, the logo, bears the *Charkha* symbol, MKVIA is depicted as associated with the *Mahotsav* held on its own premises.

52. No person of average intelligence and imperfect recollection in the market can be reasonably expected to believe that MKVIA had nothing to do with the sale and promotion of Khadi products through the event. The Trustees of MKVIA being the persons who run the affairs of the Trust are the individuals who are liable and responsible for the actions of MKVIA. The very name of the Defendant in the Plaint is “Board of Trustees” of MKVIA.

53. However, I must not fail to notice that the filing of the application under Order XXXIX Rule 2A has led to heightened fear of implications of Court

intervention, resulting in no further events having been held since then. While the violation appears to have been a conscious one, the jurisdiction under Order XXXIX Rule 2A of the CPC is aimed at securing compliance i.e. it is remedial rather than intended to be a sanction of attachment or property or civil imprisonment as an end in itself. Both these measures are meant to be coercive measures to secure compliance and once compliance is achieved within the stipulated parameters, the continued application of these measures is untenable.

54. As regards of the role of individual Trustees, KVIC has chosen to adopt the institutional standard that all the Trustees regardless of their personal knowledge are liable to be sent to civil imprisonment. In other words, KVIC appears to be of the view that attachment of property and confinement to civil prison are ends in themselves as sanction for the violation. The Interim Application is filed under Order XXXIX Rule 2A of the CPC and not under the CC Act. The Court may objectively bear in mind when assessing and deciding upon the consequence that must be visited upon the violator of the interim order, whether the purpose of ensuring compliance with the interim order has been achieved. Had this been a Contempt Petition, the principles of law declared in *U.N. Bora* would have been relevant to impose liability on persons in charge of compliance with the Injunction Order.

55. In my view, it would be sufficient to issue certain remedial directions to the trustees of MKVIA, which I have set out in the concluding paragraphs of this judgement.

**Agreement for Sale:**

56. As regards the invocation of the CC Act to punish MKVIA's Trustees for execution of the Agreement for Sale with Rishabraj, the contentions of KVIC simply do not appeal to me to exercise this Court's discretion to entertain the Contempt Petition. KVIC's grievance is that MKVIA's name is found in the registered Agreement for Sale which was to sell land owned by MKVIA. The contention that execution of such agreement constitutes contempt has to be stated to be rejected. MKVIA was indeed prevented from using the name "*Mumbai Khadi & Village Industries Association*", but such use was prohibited in relation to promotion and sale of "Khadi" products. The Agreement for Sale is a document for sale of land and not sale of "Khadi" products.

57. That apart, I am not inclined to bring to bear the heavy hand of the contempt jurisdiction in connection with a change of name of a charitable trust. So long as the activity on which restraint has been imposed is complied with, there cannot be an absolute direction to change the institution's name even when the real import of the restraint is the use of such institutional name in connection with the proscribed activity.

58. I have already dealt with the conduct of the *Mahotsav* in the earlier part of this judgement. There is no other allegation made by KVIC that MKVIA has violated the restrictions in the Injunction Order after the imposition of restraint by selling Khadi products. If that had been the case, the continued use of its institutional name would have mattered. However, there being no such allegation, in my view the mere continuation of its institutional name would not lend itself to invocation of the contempt jurisdiction. Various property records would be held in the name of the institution. One cannot invoke the contempt jurisdiction regardless of the subject matter of the suit and the purpose of the Injunction Order.

59. Ms. Arora would suggest that the Agreement for Sale made news and got widely reported – all using the full name of MKVIA. That still would not be relevant for exercise of contempt jurisdiction without any indication as to how any of the specific actions restrained by the Injunction Order was carried out by the execution of the Agreement for Sale. It cannot be that if the document did not make news, its execution would not constitute contempt but because it made news it would constitute contempt.

60. Various records including land records may continue to depict the name of MKVIA as the owner. If KVIC's contention were to be accepted, the absence of mutation entries in land records would also constitute contempt. The

continuation of the MKVIA name in past filings with the Charity Commissioner which are part of public filings, too would then constitute contempt. In any case, the identification in the Agreement for Sale, of MKVIA as the owner of the land and Rishabraj as the acquirer, without any nexus to the sale and promotion of Khadi products, is a mere bipartite agreement over a land transaction. The execution of such an instrument would not constitute contempt of the Injunction Order.

61. Indeed, each and every filing in the captioned proceedings too are made in the name of MKVIA. If the standard canvassed in the Contempt Petition were to be accepted, every occurrence of the original name in the filings made in this Court too would constitute contempt. Matters of contempt are between the Court and the alleged contemnor and I have no hesitation in rejection the element of the Agreement for Sale constituting contempt.

62. Indeed, the Injunction Order prevents office bearers, servants, representatives and all persons from using the “Khadi” mark but this is again in the context of the restrained actions, namely, manufacturing, selling, offering for sale and advertising directly or indirectly or providing any kind of goods or services under the mark Khadi. The execution of the Agreement for Sale is not an activity restrained by the Injunction Order and simply cannot be the basis to hold MKVIA to be in contempt.

**Prior Digital Listings:**

63. KVIC contends that MKVIA's earlier listings on digital platforms continue. I have examined the record. The listings are on a third-party digital platform. There is no allegation of a fresh listing after the Injunction Order. The past listings created prior to the Injunction Order, if not removed by such third parties, in my view, it would not be a sufficient basis to bring the heavy hand of the contempt jurisdiction to bear against MKVIA and its trustees.

64. It is not KVIC's case that it floated an enquiry on the public listing by a third party, to find that such a listing led to a potential trade in Khadi products. Mr. Khandekar also brings to bear efforts made by MKVIA to write to the third-party platforms with requests to taken down the listing of MKVIA's name. Ms. Arora points out that all these requests have been made only after the Contempt Petition was filed. Be that as it may, the efforts being taken with the third-party digital platforms to remove them are noted. I am not inclined to exercise my discretion to bring to bear the contempt jurisdiction in this regard.

65. In the absence of any specific averment about listings having been applied for or utilised after the Injunction Order, in my opinion, it is inappropriate to exercise discretion in the contempt jurisdiction.

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**Summary of Conclusions, Measures and Directions:**

66. For completeness, it would be appropriate to summarise my conclusions on the principles of law to be applied when considering an application under Order XXXIX Rule 2A of the CPC, as follows:

A] The true test is to examine whether there is an interim order in existence; whether there is a discernible obligation to do or refrain from doing something mentioned in the interim order; whether such obligation has been violated; and if the aforesaid questions are answered in the affirmative based on the material on record, whether the power to attach property or the power to impose civil imprisonment, which are the measures provided for in Order XXXIX Rule 2A of the CPC, should be exercised to secure compliance with the interim order;

B] The standard of proof necessary to be deployed for the finding on the alleged violation of the obligation is the civil standard of preponderance of probability, but of a high degree commensurate with the stigma attendant with violation of a Court order;

C] The Court must remember that the objective of Order XXXIX Rule 2A of the CPC is to ensure compliance with the interim order – quite akin to the principles applicable under Order XXI, Rule 32 of the CPC in relation to enforcement of a permanent injunction;

D] Attachment of the violator's property or sending the violator to civil prison is not an end in itself. If remedial measures can be adopted to secure compliance, the powers under Section 151 of the CPC may be brought to bear to achieve the same without having to attach property and inflict civil imprisonment to coerce compliance with the interim order;

E] Where it is felt that attachment of property for disposal or civil imprisonment is merited in the facts of a given case, great care and caution should be used to ensure that indeed there is no ambiguity about either the existence of the obligation or its violation, and that the adoption of such measures is necessary for securing compliance with the interim order – neither of these measures is an end in itself;

F] Judgements on the point have to be read in context of the factual matrix in which they were rendered and not interpreted as if the judgements were statutory provisions; and

G] One must remember that the standard of proof applied for the *prima facie* view to direct an interim order was the civil standard and equity principles. Adopting a criminal standard without regard to the measures intended to be deployed to secure compliance with the interim

order, would stultify and nullify the very reason for which the interim order was passed in the first place.

67. Applying the foregoing to the facts of this case, the Interim Application is ***finally disposed of*** with the following directions and order:

A] The Board of Trustees of MKVIA is directed not to host any event relating to “Khadi” and the promotion of “Khadi” by any person whatsoever, regardless of whether such person is certified or approved by KVIC, whether on MKVIA’s premises or elsewhere;

B] Taking into account the fact that MKVIA has since fallen in line and has not held any other event or subsequent editions of the *Mahotsav*, the Injunction Order is not being violated any longer, and compliance with it has been achieved. The measures of imprisonment and attachment not being an end in themselves and only being the means to achieving the end of securing compliance, I have no hesitation in not directing any attachment of property or confinement to civil imprisonment in the facts of the case;

C] In the peculiar facts of the case, in my view, in exercise of powers under Section 151 of the CPC, for the evident violation of the interim order found in the jurisdiction under Order XXXIX Rule 2A, this would be a fit case to direct that MKVIA pay costs for litigation in the sum of

Rs. 2,50,000 to KVIC to factor in the costs expended in pursuit of enforcing against the breach of the interim order within four weeks from today.

D] Each of the trustees of MKVIA is warned to be careful in future and is directed to refrain from indulging in any sharp practice by holding such events, whether in MKVIA's premises or elsewhere, which would be in conflict with the obligation not to directly or indirectly, sell and market any products purporting them to be "Khadi" products or using the "Khadi" name and *Charkha* mark, as directed in the Injunction Order;

E] The Contempt Petition does not convince me to exercise discretion to bring to bear the power of punishing for contempt for executing the Agreement for Sale and the residual vestiges of listing seen on third party platforms; and

F] The trustees of MKVIA are directed to file an affidavit with full facts and audited financial information about the conduct of the *Mahotsav*, which will be taken into account during into the final adjudication of the Suit. The trustees shall also file an affidavit stating what institutional measures have been put in place by them to ensure that there is no recurrence of such violation of the Injunction Order in future. Such affidavit shall also set out the efforts taken by the trustee to

delist MKVIA from third party platforms, with a current update in this regard. The affidavit shall be filed within a period of four weeks from the upload of this judgement on the Court's website.

68. In the aforesaid terms, the Interim Application and the Contempt Petition are *finally disposed of*.

69. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

**[SOMASEKHAR SUNDARESAN, J.]**