

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

**CONTEMPT PETITION NO. 238 OF 2015**

Ramesh M. Sanghavi & Ors. ... Petitioners  
vs.  
Kantilal S. Rajgor & Ors. ... Respondents

Mr. J.S. Kini i/b. Mr. Suresh Dubey, Advocate for the petitioners.  
Mr. A.M. Saraogi, Advocate for the respondents.

CORAM: **MRS.MRIDULA BHATKAR, J.**  
DATE : **22<sup>nd</sup> September, 2015**

**P.C.:**

This Contempt Petition is filed by the tenants against the contemnors, who are the landlords, for violating the consent terms dated 19<sup>th</sup> July, 2008. The said consent terms are accepted and decree was drawn in accordance with the consent terms and the Suit No. 1356 of 2008 was disposed of. Pursuant to the consent terms, the possession of suit premises was handed over to the petitioners by the contemnors/landlords on 21<sup>st</sup> July, 2011. However, certain terms mentioned in the consent terms were not fulfilled by the contemnors/landlords. Hence, this Contempt Petition is filed.

2. It appears from the record that the possession of the premises was handed over to the petitioners on 21<sup>st</sup> July, 2011 and whatever deficiencies or non-fulfillment of the consent terms was noticed by the petitioners obviously when the possession was taken. Though it is

mentioned in paragraph 18 of the petition that in the month of January, 2015, when the contemnors refused to provide the deficit area of the premises and were not ready to register the agreement, the cause of action arose, however, there is nothing to show that the contemnors refused to act upon the consent terms in January, 2015, therefore, the cause of action is to be taken on 21<sup>st</sup> July, 2011, i.e., the date when the petitioners took possession of the suit premises. This Contempt Petition is filed in the year 2015 which is beyond one year and therefore, hit by limitation, as the cause of action cannot be stretched till January, 2015. Moreover, the learned counsel for the contemnors submitted that landlords want to challenge the consent terms, as the landlords did not give free consent and a fraud is played upon them and for cancellation of lease consent terms, the contemnors have filed Civil Suit No. 3324 of 2015 on the ground of fraud and it is pending before the Small Causes Court.

3. As the Contempt Petition is based on the consent terms which is challenged before the Small Causes Court and the subject matter of Civil suit which is pending before the Small Causes Court, Contempt Petition is dismissed.

**(MRS.MRIDULA BHATKAR, J.)**

**CERTIFICATE**

Certified to be true and correct copy of the original signed  
Judgment/Order.