

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO. 184 OF 2011

1. Shri. Nandlal Bhagchand DusejaPetitioner
: V/S :
1. Mrs. Sunita w/o. Ramesh Karia and Ors.Respondents

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Mr. Kishor Patil, i/by. Mr. P.N. Joshi, Advocate for the petitioner.

Ms. Gauri Godse, Advocate for the respondents.

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Coram :- Smt. R.P. SondurBaldota, J.

9th February, 2015.

P.C. :-

1). This Contempt Petition is taken out by the appellant alleging that the respondents have committed contempt of Court by violating the interim order dated 21st July, 2004 by which the parties were directed to maintain status-quo in respect of the suit property. The dispute arising in the petition is in respect of two shops i.e. Shop No.418 and Shop No.419. The petitioner is in possession of Shop No.418 and the respondents are in possession of Shop No. 419. The respondents had

taken out Civil Application No. 1599 of 2008 seeking permission to carry out repairs to Shop No. 419 of following nature :- (i) changing the roof by A.C. Sheets, (ii) carrying out plastering work to the walls and (iii) carrying out flooring work with tiles. That application was allowed by the order dated 4th March, 2009. The respondents had placed the photographs on record to indicate the nature of damage and internal repairs to be carried out on the basis of which permission to repair the structure was granted. It is the allegation of the appellant that, taking advantage of the order dated 21st July, 2004 the respondents have carried out further work as described at para-7 of the petition. The allegations of additional work read as follows :-

“(a). The Respondents have changed the front door which was neither the subject matter of the Civil Application nor any permission to that effect was granted.

(b). The Respondents have changed sign board which was also not referred by the Court in its Order nor the Respondents have made references about it in the Civil Application.

(c). The flooring which has been done by the Respondents should have been restricted to the area of the Shop No. 419 however, they have put the flooring till the footpath.

(d). The Respondents have opened back side door with iron gate which was also not subject matter of Civil Application No. 1599 of 2010 nor this Hon'ble Court permitted to do so.

(e). The Respondents have obtained telephone connection by misleading the Authorities and by forging the documents.

(f). They have also transferred electricity connection in respect of Shop No. 419.

(g). The Respondents have also changed the record of the property.”

2). The allegations at items (a) and (d) relating to changing the front door without permission and opening of backside door with iron gate, there is nothing on record to indicate as to what was the position of these two doors prior to the order dated 21st July, 2004. In the absence of these material on record, it cannot be said that there is violation of the order passed by this Court. As regards the other allegations of changing the sign board or extending the flooring till the footpath or obtaining telephone connection by misleading the authorities or transferring electricity connection, the same can hardly be said to be violation of the order permitting repairs to the structure. Hence, the contempt petition is dismissed.

(SMT. R.P. SONDURBALDOTA, J)