

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.09 OF 1993

Hasmukh N. Malkan ... Petitioner

vs.

Dhanji Viran Nishar and Others ... Respondents

Ms. Sayali Bhaidkar i/b. Mr. Atul Damle, for the Petitioner
None for the Respondents.

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **10th DECEMBER, 2015**

P.C.:

. The learned counsel Mr. Atul Damle for the Petitioner was supposed to make statement before the Court whether Civil Suit No. 3674 of 1992 is still pending or not before the City Civil Court, Mumbai. The learned counsel Ms. Sayali Bhaidkar for the Petitioner informs the Court that she has tried to take instructions from the Petitioner in respect of the Civil Suit whether it is still pending or not, however no response is given by the Petitioner. The Petitioner is not present in the Court.

2. This is the Contempt Petition as the Petitioner claims that the Respondent has committed violation of the order dated 8th June,

1992 passed by the learned Judge of Bombay City Civil Court in Notice of Motion No. 3133 of 1992. By that order, the Court has directed the Contemnor not to carry out any repairs and reconstructions of his tenements. However, it is the case of the Petitioner that the Contemnor has constructed the first floor and increase the dimensions of the suit structure. In support of his pleadings, he has filed the photographs on record.

3. Perused the affidavit in reply filed by Respondent No. 1 Dhanji Viran Nishar who has denied any willful disobedience is committed of the order passed by this Court. He has denied all the contentions in respect of the illegal construction. He has also tendered unconditional apology if at all any order is breached.

4. After going through the photographs, it is not made clear that which construction is unauthorized and how the order of this Court is violated. In view of this, the contempt is not proved. Hence, the Petition stands dismissed.

(MRS.MRIDULA BHATKAR, J.)