

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.244 OF 2003

Anthony John Patel	... Petitioner
vs.	
Stephen Oswal Almeida	... Respondent

None for the Petitioner.
Mr. Omprakash Singh, Advocate for Respondent No. 1.
Mr. Stephen Oswal Almeida, Respondent No. 1 present.

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: 10th DECEMBER, 2015

P.C.:

. The Petitioner has filed this Contempt Petition alleging that the order passed by this Court on 11th October, 2001 in Appeal from Order No. 777 of 2001 is violated by the Respondent. Thus he is guilty of committing contempt of the order of this Court.

2. The Appellant in Appeal No. 777 of 2001 is a Respondent before this Court. He owns the house and in that house the present Petitioner was the occupier. The Respondent/landlord has received a notice from the Corporation under Section 354 of the B.M.C. Act. The

Appellant sought permission to carry out the repairs in respect of the entire structure including the portion of the structure which is in possession of the present Petitioner. The Respondent opposes that Appeal on the ground that under the pretext of repairs, the present Respondent wanted to oust him out of the suit premises.

3. While deciding the Appeal from Order, this Court has allowed the Appellant to carry out all the repairs and re-plastering of his house, however put the condition that the Appellant shall not affect the mezzanine floor in the structure which was then occupied by the present Petitioner and shall not demolish or disturb the same. This Court has allowed the Appellant to carry out repairs in accordance with the notice dated 30th November, 1999 issued by the Corporation and further extended its period for eight weeks to carryout the repairs.

4. It is contended that the Respondent has carried out the construction violating the notice dated 30th November, 1999 given by the Corporation and also violated the order of this Court dated 11th October, 2001 by interfering the possession of the Petitioner in respect

of half portion of the suit premises by digging the floor of the kitchen and putting a wall in the bedroom. He has filed the photographs in support of his contention.

5. I have perused the photographs. So also the affidavit in reply filed by the Respondent. I heard the Respondent. He submits that the Respondent is bound by the order of this Court. There is no violation of the order of this Court. The repairs were carried out in the year 2001 as per the order passed by this Court. Today also the Respondent is occupying the said premises. He tendered apology if any contempt is committed.

6. In view of the explanation given by the learned counsel for the Respondent, I do not find there is any willful disobedience committed of the order passed by this Court.

7. Hence, the Contempt Petition stands dismissed.

(MRS.MRIDULA BHATKAR, J.)