

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CONTEMPT PETITION NO.544 OF 2014

Manjpal Singh Verma

.. Petitioner

Vs.

Sunil Kantibhai Patel and Ors.

.. Respondents

Mr.B.P.Pandey i/b Mr.V.B.Pandey for the petitioner

Mr.Numit Srivastava with Mr.Tushar Ingale i/b M/s.Maniyar Associate
for respondent no.3

CORAM : K.K.TATED, J.
DATED : 16/02/2015

PC:

- 1 Heard the learned counsel for the parties.
- 2 The learned counsel for the petitioner submits that they do not want to claim any relief against respondent nos.1 and 2.
- 3 Statement is accepted.
- 4 By this contempt petition, the petitioner alleges that the respondent no.3 violated the order dated 24.9.2012 passed by this court in Notice of Motion no.3473 of 2008 along with Notice of Motion No.2135 of 2012 in Suit No.2753 of 2008 by creating third

party right, title and interest in respect of the suit property i.e. land admeasuring 237 sq.mtrs. of Survey No.70 Hissa No.2(Part) etc. as described in plaint. The learned counsel for the petitioner submits that this court by order dated 24.9.2012 and subsequent order dated 22.10.2012 made Notice of Motion absolute in terms of prayer clause (a). Prayer Clause (a) of the said motion reads thus:

“That pending the hearing and final disposal of this suit the Defendants No.1 his agents, servants and representatives and/or any other person or persons claiming through him be restrained by temporary injunction order of this Hon'ble Court restraining them from in any manner selling transferring assigning encumbering with or dealing with or disposing of suit property and/or from creating third party rights in respect thereof in favour any third party and/or from parting with possession of suit property i.e. bearing Part and Parcel of the Original Property admeasuring about 237 sq.mtrs or thereabout bearing Survey No:70, Hissa No.2 (Part) Survey No: 46, Hissa no:2 (Part) City Survey No:311/C situated lying and being at Village Valnai, Taluka Borivali, Mumbai Suburban District forming part and parcel of larger property i.e. Original Property admeasuring about 2430 sq.mtrs or thereabouts beaing Survey No:70, Hissa No:2 (Part), Survey No:46, Hissa No:2 (Part), City Survey No:31, situated lying and being at Village Valnai, Taluka Borivali, Mumbai Suburban

District. In any manner whatsoever.”

5 He submits that inspite of injunction order granted by this court respondent no.3 created third party right, title and interest in respect of the suit property. Hence, he should be dealt with as per the provisions of Contempt Of Court Act.

6 I have gone through the copy of Contempt Petition, Notice of Motion no.3473 of 2008, copy of plaint and the order dated 24.9.2012. Bare reading of the order dated 24.9.2012 shows that Notice of Motion No.3473 of 2008 made absolute in terms of prayer clause (a). Prayer clause (a) of the motion is only against defendant no.1. Even in contempt petition, petitioner has not pointed out the way in which respondent no.3 committed the contempt by violating the order dated 24.9.2012. There are no averments in the contempt petition how the respondent no.3 secured the right, title and interest of original defendant no.1.

7 Considering these facts, I do not find any reason to entertain the present Contempt Petition. Hence, same is rejected.

(K.K.TATED, J.)