

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION.**

CONTEMPT PETITION NO. 661 OF 2014

Dayanand Angle Vedic College Trust ... Petitioner

V/s.

Nagarbai Tamanna Mhetre
since deceased through legal heirs
Shri. Sidram Sidappa Mhetre & Ors. ... Respondents

Mr. Vijay Killedar for the Petitioner.

Mr. Sachin Thorat for the respondent nos. 2 to 6, 9A to 9F.

**CORAM : K. K. TATED, J.
DATED : 14/09/2015.**

PC.:

. Heard learned Counsel for the parties.

2 The learned counsel for the petitioner submits that in the present proceeding the respondent failed and neglected to comply the order dated 09.06.2014 passed by this Court (Coram : R. G. Ketkar, J) in Second Appeal no. 576 of 2002 with Civil Application no. 808 of 2002 by handing over vacant and peaceful possession of the suit property. He submits that respondent contemnor before this court made a statement that they will handover the vacant and peaceful possession of the suit property. He relies on paragraph 25 of the said order, which reads thus:

“25. At this stage, Mr.Deshmukh orally applies for

continuation of adinterim order dated 13.08.2002 for the period of twelve weeks from today. He states that appellants and all the adult family members residing with them will file usual undertaking in this Court within a period of four weeks from today incorporating therein:

- a. that they are in possession of the suit land and nobody else is in possession;*
- b. that they have neither created third party interests nor parted with possession;*
- c. that they will hereafter neither create third party interests nor part with possession;*
- d. that they will pay the arrears of rent, if any, within a period of four weeks from today;*
- e. that in case they are unable to obtain suitable orders from the higher Court within twelve weeks from today, they will handover vacant and peaceful possession of the suit land to the respondent within twelve weeks from today.”*

3 The learned counsel for the petitioner submits that as the respondent failed and neglected to comply the said order, the action be taken against the respondent contemnor under the Contempt of Court Act.

4 On the other hand, the learned counsel for the respondent contemnor submits that the petitioner filed Regular Darkhast No. 228 of 1998. He submits that that in Regular Darkhast No. 228 of 1998, the possession is already handed over to the petitioner. In support of this contention, the learned counsel for the respondent placed on record the compilation of documents. Same is taken on record and marked 'X' for its identification.

5 These facts are not disputed by the Petitioner.

6 Considering the facts and circumstances of the present matter and the subsequent development that the possession is already handed over to the petitioner, I do not find that action to be taken under the Contempt of Court Act against the respondent.

7 Hence, Contempt Petition stands dismissed.

(K.K.TATED, J.)

CERTIFICATE

Certified to be true and correct copy of the original signed order.