Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 432 OF 2012

Vilas Raghunath Patole ... Petitioner
Vs.
Govind Kabra Bhadricha & Anr. ... Respondents

WITH
CONTEMPT PETITION NO. 8 OF 2013

Mrs. Kanchan Vilas Patole ... Petitioner
Vs.
Govind Kabra Bhadricha & Anr. ... Respondents

Mr. Sandip Salunkhe, Advocate for the petitioners in both the matters.
Mr. S.G. Karandikar, Advocate for respondent nos. 1 and 2 in both the matters.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **14th December, 2015**

P.C.:

The issue involved in both these Contempt Petitions are same, hence the Contempt Petitions are disposed of by a common order.

2. These Contempt Petitions are filed against respondent nos. 1 and 2, i.e., husband and wife, that the respondents have committed contempt by violating the order in respect of consent terms dated 9th January, 2010 in L.C. Suit No. 391 of 2009. The petitioners were occupying two tenements, i.e. 9/A room no. 13 and 9/B room no.1 in a building known as Laxmichand Deepchand Mansion, Hamal Wadi, Dhobi Talao. The said

building were taken for development by the respondents/builder and developer. The petitioners along with other residents of that building filed a Civil Suit No. 391 of 2009 against MHADA and present respondents. In the said Civil Suit, the parties filed consent terms and those consent terms were accepted on 11th February, 2010 by the trial Court. The suit was disposed of in terms of consent terms.

3. As per the consent terms, the petitioners were to vacate the respective premises on or before 31st March, 2010. The respondents/contemnors were to execute the Agreement of the premises which was in lieu of the old one and were also bound to pay rent or compensation @Rs.5,500/- per month. They shall issue a cheque of Rs.1,32,000/- for a period of 24 months when the petitioners shall vacate the premises. Now the petition is filed that though the petitioners have vacated the premises, as they were removed from the room on 2nd February, 2013, the petitioners were not paid rent for their alternate accommodation and thus, the respondents/contemnors have committed breach of the said order.

4. After hearing the learned counsel for both the parties and after going through the consent terms and the order passed thereon, it is found that

the respondents have given a cheque of Rs.1,32,000/- in June, 2010 itself which covered the period of 24 months rent for the alternate premises. The petitioners have accepted the said cheque, however, they did not vacate the premises until they were ousted from the premises by MHADA by initiating action under section 95A. Thus, the possession of the tenements were received by the builder on 2nd February, 2013. Now the building is demolished and the petitioners are occupying the tenements on rent at Bhandup since 2013. The respondents/contemnors have deposited Rs.22,00,000/- to MHADA for alternate tenements at Dharavi. It is submitted by the learned counsel for the respondents that out of 90 residents, 28 are residing in Dharavi, of which they have deposited an amount of Rs.22,00,000/-. Remaining 60 are residing at places of their choice and to that the respondents are paying rent regularly @ Rs.5,500/- p.m. These facts are not disputed by either of the parties.

5. The main grievance in this matter as contended by the petitioners is that the agreement was required to be executed before the petitioners were supposed to vacate the premises, i.e. 31st March, 2010 and thereafter they were required to vacate. The learned counsel for the respondents has submitted that the respondents are ready to execute the agreement as per the terms and conditions agreed earlier and annexed thereto except the

change of date. It is suggested by the Court that pursuant to the consent terms and as the consent terms were accepted by the Court, it is binding on the respondents/builders to pay rent to the petitioners, however, some concession can be given, as the respondents have already paid Rs.1,32,000/- to each petitioner towards the rent of 24 months in the beginning. That rent can be adjusted towards the arrears of rent. Thus, it appears that the rent can be adjusted upto 2nd February, 2015 as they vacated the premises on 2nd February, 2013. Thus, the petitioners claimed that they should be paid this amount. However, it appears from the record that the respondents have paid some money to the petitioners and they are also ready to pay the amount, however, the petitioners did not vacate the premises for 2 years and now has filed the Contempt Petition. Considering this position and in all fairness as now the parties have agreed, this can be considered as a fresh arrangement between the parties so that these Contempt Petitions can be disposed of on the following terms:

(i) The respondents/contemnors agreed to enter into registered agreement till 10th January, 2016 with the petitioners as per the agreement annexed with the consent terms except the variation in respect of dates.

(ii) The respondents shall pay Rs.5,000/- to each petitioner towards their respective tenement from July, 2015 and shall pay arrears

for 6 months on or before 23rd December, 2015 and thereafter from January, 2016 the respondents/contemnors shall pay 6 months rent well in advance on or before 15th date of January and 15th date of July every year. This arrangement shall continue from January, 2016 till December, 2017.

(iii) If the building is not ready, the petitioners are free to move this Court for increase in rent.

6. Contempt Petitions are disposed of.

(MRIDULA BHATKAR, J.)