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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO.28 OF 2015

IN

NOTICE OF MOTION NO. 1802 OF 2011

WITH

NOTICE OF MOTION NO. 1913 OF 2011

IN

SUIT NO.1306 OF 2011

Behnafshah Nikhil Morarji

...Petitioner/Plaintiff

vs

Mahvash Soli Irani

...Respondent/Defendant

.....

Mr. Zal Andhyarujina, i/b. Kanga & Co., for the Petitioner/Plaintiff.

Mr. Chetan Mali, for the Respondent/Defendant.

....

CORAM : S.C. GUPTE, J.

DATED : 29 APRIL, 2015

P.C. :

. The petition is on the footing that the Respondent has committed breach of the orders passed by this Court on 3 August 2012 and 5 August 2014 and undertakings of the Respondent recorded therein by refusing to bear the costs of survey and measurement of the property. It is submitted by the Respondent that the Respondent has always been ready and willing to bear costs of survey and measurement on the footing of an ordinary survey and measurement but what the Petitioner wants is an urgent survey and measurement which costs multiple times the ordinary survey and measurement costs, which the Respondent is not willing to bear. It is submitted that the Respondent is willing to contribute the cost of ordinary survey and measurement even today. Learned Counsel for the

Petitioner submits that his client may be permitted to bear the burden of additional costs to be incurred for urgent survey and measurement of the property, since otherwise the survey and measurement will take a long time, but that his client may be permitted to adopt suitable measures seeking appropriate orders for reimbursement of the amounts spent towards such survey and measurement. The Respondent may contribute her proportionate share of ordinary survey and measurement, which comes to approximately Rs.10,000/-. The rest of the cost of measurement and survey shall be borne in the first instance by the Petitioner subject to her right to recover the same from the Respondent. All rights and contentions of the parties in this behalf are kept open. It is made clear that this order is passed on statements made by learned Counsel for both the parties and the merits of the Contempt Petition are not considered by this Court. There are some other pending issues arising out of the Court orders passed in the matter. It is agreed between Counsel for both the parties that these issues will be resolved amicably. It is agreed between the parties that in view of this co-operation, the Contempt Petition may not be pressed. The Petition is disposed of.

(S.C. GUPTE, J.)