

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****CONTEMPT PETITION (L) NO . 44 OF 2015****IN****CONTEMPT PETITION NO. 56 OF 2009****IN****CONTEMPT PETITION NO. 15 OF 2008****IN****SUIT NO. 1119 OF 2003**

Sahida @ Leela Gulam Ali Shaikh

...Petitioner

VS.

Sherali Gulamali Shaikh and Ors.

....Respondents

WITH**CONTEMPT PETITION (L) NO. 120 OF 2015****IN****SUIT NO. 1119 OF 2003**

Kamrunisa d/o. Gulam Ali Shaikh & Anr.

...Petitioners

VS.

Shahida @ Leela Gulam Ali Shaikh & Ors.

....Respondents

Mr. Sanjeev Sawant for Petitioner.

Mr. K.T. Kukreja i/b Arvind Manghirmalani for Respondent No. 1

Mr. Ashok Tajane for Respondent No. 2, 4 & 6

Mr. Bhaskar Sarwade for Respondent No. 5

Mr. I.M. Khairdi for petitioner in Conpl. 120 / 2015 (Not on board)

Mr. Manoj Shukla for Intervener

CORAM : S.C. GUPTE, J.**16 December 2015****P.C. :**

These contempt petitions allege contempt on the part of the Respondents of orders passed by this Court on 5th April 2005, 12th November 2008 and 12th September 2014. It is apparent having regard to the pleadings of the parties in the petitions as well as submissions made across the bar that whereas none of the Respondents contests the binding nature of the orders referred to above, the defence really pertains to the individual Respondents not

actually being party to any breach of the orders. Though the responsibility of individual Respondents is a matter of trial, it is a matter of fact that collections are being made from tenants / occupants as well as Dargah box and yet no amount is being paid to the Petitioner, obviously contrary to the orders passed by this court. None of the Respondents are, however, averse to the appointment of Court Receiver of the entire suit premises and collection of revenue by the Receiver. In the event, the Court Receiver collects such revenue, the Court receiver will have to make payment to the Petitioner on the basis of the orders passed by this Court on 5 April 2005, 12 November 2008 and 12 September 2014. The parties are also agreeable to the Receiver making inquiries into the construction of various structures within the suit property and the rent so far collected by individual parties. Accordingly, the contempt petitions are disposed of in terms of the following order:

1. The parties to the consent terms shall abide by the consent terms already filed in this Court in Suit No. 1119 of 2003 and accepted by this Court by order dated 5th April, 2005 and further abide by the order passed by this Court on 12th November, 2008 in Contempt Petition No. 15 of 2008.

2. The parties to the consent terms shall also abide by the consent terms filed in Contempt Petition No. 56 of 2009 and accepted by this Court by order dated 12th September, 2014.

3. The Court Receiver, High Court, Bombay shall stand appointed as a receiver of the suit property to look after the affairs of the property and discharge the following duties in respect of the suit property:-

- a) Recovery of rent from tenants / occupants of structures erected in the suit property to the exclusion of all parties including the intervenors and everyone else;

b) Taking over of all collections in the Dargah box to the exclusion of everyone else.

c) Inquiries as to all new structures that are constructed by the Respondents in the suit property after the execution of the first consent terms executed on 5th April, 2005.

d) Inquiries thereafter as to the persons who have constructed such structures and who have received the consideration amount in respect of such newly erected structures and requisitions to Asst. Commissioner, H/West Ward for demolition of all illegal structures that may be found on the suit property including filing of complaints in accordance with law.

e) Inquiries as to the persons who have been collecting rents of the existing structures on the suit plot of land and the quantity of the total rents collected.

f) Taking of all steps and measures to see that no illegal structure is erected hereafter by any of the parties on the suit plot of land.

4. The Court Receiver shall pay Rs.2,25,000/- towards arrears and thereafter Rs. 25,000/- per month out of the amounts collected towards income of the suit property in terms of this order, to the Petitioner. The Petitioner shall designate a Saving Account for payment of monthly compensation under this order. The balance amount shall be invested by the Court Receiver in fixed deposits of Nationalized Banks, to the credit of the suit and towards the claims of the intervenors who also claim shares in the suit property, to abide by such further orders as may be passed by this court.

(S.C. Gupte, J.)