

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

CONTEMPT PETITION NO.405 OF 2015

Umesh Vasu Shetty

.. Petitioner

Versus

Ms. Sangeeta Ramchand and another

.. Respondents

Mr. H. V. Kumarswami for the Petitioner.

CORAM : R.M. SAVANT, J.

DATE : 8th JUNE 2016

PC.

1. The contempt alleged is of the order dated 13.11.2013 passed by a Learned Single Judge of this Court. By the said order, the decree passed by the Trial Court i.e. the Learned Judge of the City Civil Court in SC Suit No.2440 of 2010 came to be stayed only to the extent of clauses 4, 5 and 6. The operative part of the decree runs into seven clauses. By clause 2 of the decree, the Defendant No.1 was directed to form a Co-operative Society. By clause 3, the Defendant No.1 was directed to obtain Occupation Certificate and by clause 7, the Defendant No.1 was restrained from carrying out any addition/alteration to the suit building contrary to approved plans of the year 1994. The said clauses have been referred to as the same have not been stayed by the Learned Single Judge by the said order dated 13.11.2013. It is the case of the Petitioner that since by the

said order dated 13.11.2013 the said clauses have not been stayed, the Defendant No.1 was obliged to comply with the said clauses and since the Defendant No.1 having not done so, has fallen foul of the order dated 13.11.2013. As indicated above, by the said order dated 13.11.2013, the decree has been partly stayed in so far as clauses 4, 5 and 6 are concerned and in so far as clauses 2, 3 and 7 are concerned, the decree is intact. It is therefore not possible to accept the contention of the Learned Counsel for the Petitioner that the non-compliance of the said clauses 2, 3 and 7 amounts to breach and violation of the order dated 13.11.2013 and that too deliberate and willful. Since the decree in so far as clauses 2, 3 and 7 has not been stayed, it is for the Petitioner to apply for the execution of the said decree in so far as clauses 2, 3 and 7 are concerned which the Learned Counsel for the Petitioner states that the Petitioner in fact has done. If that be so, there is no warrant to entertain the above Contempt Petition both on the ground that prima-facie there is no violation of the order dated 13.11.2013 and that secondly on the ground that the Petitioner has already filed execution proceedings. The Contempt Petition is accordingly dismissed.

[R.M. SAVANT, J]