

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

**CIVIL APPLICATION NO. 28 OF 2016
IN
CONTEMPT PETITION NO. 199 OF 2013**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Atul Rajadhyaksha, Senior Counsel a/w Nishant Tripathi i/b M/s. M. Tripathi & Co. for the Applicant.
Mr. Darjeet Singh Bhatia & Milind Nakashe i/b Jaydeep Shringare for the Respondent Nos. 1 to 1B.

CORAM : K. K. TATED, J.

DATED : 26/08/2016

PC.:

. Heard learned Counsel for the parties.

2 Though Respondent Nos. 2A to 2C are duly served, no one appeared on behalf of them when the matter called out.

3 This application is preferred by Plaintiff No.1 for carrying out amendment in Contempt Petition No. 199 of 2013 to place on record the subsequent event.

4 The learned Senior Counsel for the Petitioner submits that till today the Contempt Petition is not admitted by this Court and same is pending. He submits that Applicant plaintiff may be permitted to bring on record, the subsequent event by way of amendment.

5 On the other hand, the learned Counsel for the Respondent Nos. 1 to 1B vehemently opposed the present Civil Application. They filed Affidavit in reply and same is on record.

6 The learned Counsel for the Respondent No.1 to 1B submits that as on today, the Applicant is in possession of suit premises. Therefore, there is no question of carrying out alteration of the suit premises by the Respondent Nos. 1 to 1B. He further submits that applicant plaintiff No.1 preferred application below Exh. 97 in Special Civil Suit No. 412 of 2010 before the Civil Judge, Senior Division, Thane under Order 26 Rule 9 of Civil Procedure Code, 1908 for appointment of Court Commissioner. He submits that the said Application was rejected by the Trial Court by order dated 01.02.2016. He submits that in view of this fact, there is no question of allowing the applicant to carry out amendment in the Contempt Petition to place on record the subsequent event. Hence, there is no substance in the present Civil Application and same to be dismissed with cost.

7 I heard both the sides at length. It is to be noted that Contempt Petition is pending for admission. As the Petition is pending, I do not find any reason to reject the present Civil Application for carrying out amendment to place on record the

subsequent event.

8 Hence, following order is passed:

a) Civil Application is allowed in terms of prayer clause (a), which reads thus:

“a) That this Hon'ble Court may be pleased to allow him to amend the Petition in accordance with the Schedule being Annexure -”12 i.e. page 112-180.”

b) Amendment to be carried out within three weeks from today, failing which Civil Application shall stand dismissed without referring back to the court.

c) If amendment is carried out within stipulated time as stated hereinabove, Applicant to provide amended copy of Contempt Petition to the Respondents or their Advocate immediately, thereafter within two weeks.

d) Liberty granted to the Respondents, if they so desire, to file their Affidavit in reply for amended Contempt Petition No. 199 of 2013 within four weeks thereafter.

e) Contempt Petition to be placed on board as per CMIS date.

(K.K.TATED, J.)