

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

CONTEMPT PETITION NO.185 OF 2015

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.N.K.Mudnaney for the petitioner

Mr.Sagar Ambedkar for the respondent

CORAM : K. K. TATED, J.
DATE : MARCH 22, 2016

P.C.:

- 1 Heard the learned counsel for the parties.
- 2 Advocate for the petitioner submits that on 18.3.2016 he received copy of affidavit-in-reply filed by the respondent. Hence, he requires some time to go through the same and if necessary file rejoinder. Prayer for adjournment is rejected.
- 3 This Contempt Petition is filed by the petitioner alleging that the respondent violated the order dated 9.10.2014 passed by Small Causes Court at Mumbai below Exhibit 10 in R.A.D. & E. Suit No.1038/1618 of 2013 and order dated 12.3.2014 passed by Bombay City Civil Court at Bombay in S.C.Suit No.629 of 2014 by creating third party right, title and interest in respect of the

commercial premises i.e. Gala/Shop no.135(4), First Floor, Mathuradas Mills Compound, N.M.Joshi Marg, Lower Parel, Mumbai 400 013. Hence, action be taken against the respondent under the Contempt of Courts Act.

4 It is the contention of the petitioner that the respondent inspite of injunction order granted by this court created third party right by handing over suit premises to “Cafe Zoe” for carrying out business. He submits that when the petitioner visited the suit premises on 1.2.2015 he noticed that unknown persons started carrying out renovation in the suit premises. To that effect, petitioner has made averments in paragraph 7 and 8 of the Contempt Petition. The petitioner also relied on photographs on page 16 and 17 to show the board of “Cafe Zoe”. On the basis of these facts, the learned counsel for the petitioner submits that this is a fit case to take appropriate steps against the respondent under the Contempt of Court Act.

5 The learned counsel for the respondent vehemently opposed the present Contempt Petition. He filed Affidavit in reply dated 18.3.2016. In the said affidavit, the respondent denied the allegations made by the petitioner. The respondent specifically stated in paragraph 4 of the Affidavit in reply that she is in possession of the

suit premises. He submits that initially the petitioner was carrying out the business in the name and style of “Syndicate Book Binding Works”, “Express Book Binding Works” and “Shirke Book Binding Works” along with her father during and after his life time till death. The respondent specifically stated in paragraph 3 and 4 of the Affidavit in reply that as on today she is in possession of the suit premises. She is doing her business by employing staff. Hence, there is no question of violating the order dated 9.10.2014 passed by Small Causes Court at Mumbai below Exhibit 10 in R.A.D. & E. Suit No.1038/1618 of 2013 and order dated 12.3.2014 passed by Bombay City Civil Court at Bombay in S.C.Suit No.629 of 2014. He submits that considering the Affidavit in reply filed by the respondent there is no substance in the present petition and same be dismissed with costs.

6 I have heard both the sides. It is to be noted that in the present proceeding, petitioner allege that the respondent violated the order passed by Small Causes Court as well as Bombay City Civil Court as stated hereinabove by creating third party right, title and interest in respect of the suit premises in the name of “Cafe Zoe”. It is to be noted that the respondent in her Affidavit in reply

dated 18.3.2016 specifically stated in paragraph 3 and 4 that as on today she is in possession of the suit premises and she is doing her business there with the help of her staff.

7 Considering the Affidavit in reply filed by the respondent I am of the opinion that respondent has not violated any order passed by Small Causes Court as well as Bombay City Civil Court at Bombay. Hence, there is no substance in the present Contempt Petition. Hence, following order is passed:

- a) Contempt Petition stand dismissed.
- b) Notice issued by this court dated 29.1.2016 under Rule 8(1) of the Contempt of the Courts (Bombay High Court) Rules, 1994 in Chapter XXXIV of the Bombay High Court (Appellate Side) Rules, 1960 stands disposed.

JUDGE