

Sequeira

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

CONTEMPT PETITION NO. 395 OF 2009

Grace Construction

... Petitioner.

V/s.

Hari Niwas Co-op. Hsg. Society Ltd., & ors.

... Respondents.

Mr.Surel Shah, for Petitioner.

None for Respondents.

***CORAM : N.M. Jamdar, J.
Friday 15 April, 2016.***

P.C. :-

The Contempt petition is pending since the year 2009 since some of the Respondents could not be served and consequently have been deleted.

2. Contempt alleged is of the consent terms between the Petitioner and Respondents which were tendered in Appeal from Order No.638 of 2007. These were taken on record and accepted by this Court on 19 December 2007.

3. The learned counsel for the Petitioner submitted that in clause 2 of the consent terms Respondents have agreed not to use the available FSI and TDR for the building in question till the final outcome of B.C.C.C Suit No.66 of 2007. He submitted that inspite of this position they have submitted proposals through their architect in contravention of their undertaking. The learned counsel for the Petitioner also states that

however this proposal has not proceeded further since there are proceedings pending between the parties.

4. Since Contempt petition is pending since the year 2009 and that so far the Respondents have not proceeded with their proposal, it is not necessary to keep the Contempt petition pending. In case the Respondents take steps to proceed pursuant to their proposal for a development of the property, liberty to the Petitioner to revive their petition.

5. It is made clear that I have not considered the rival contentions on merits as regards the Contempt petition and in case the Contempt petition is revived, the same will be considered on its own merits. Contempt petition is accordingly disposed of.

(N.M. Jamdar, J.)