

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 607 OF 2014

Vijay D. Dave & Anr.	..	Petitioners
vs.		
Kirit K. Shah & Ors.	..	Respondents

Mr. B. Walimbe i/b. P. Walimbe for Petitioners is absent.
Mr. Vijay Dave - Petitioner No. 1 present in person.
Mr. S. S. Redekar for Respondent Nos. 1 and 2.

CORAM : M. S. SONAK, J.
DATE: 22 APRIL 2016

P.C :

1] This matter was heard for sometime yesterday but adjourned to today in order to enable Mr. Redekar, learned counsel appearing for respondent nos. 1 and 2 to take instructions in the matter. Mr. B. Walimbe made his submissions yesterday.

2] Mr. Redekar, learned counsel for respondent nos. 1 and 2 on basis of instructions from the said respondents makes a statement that the said respondents will, without prejudice to their rights and contentions, including in particular without prejudice to the proceedings taken up by the said respondents in form of notice of motion no. 550 of 2016 in short cause suit no. 2160 of 2012, comply with the directions contained in the judgment and decree dated 27 June 2013 in short cause suit no. 2160 of 2012. This means that

the said respondents, who presently are the managing committee members of New Ratan Apartment Co-operative Housing Society Ltd., will, enroll the petitioners herein as members of the society and issue necessary share certificates to them within a period of one week from today. This statement is accepted as an undertaking to this Court.

3] It is further made clear that the compliances with the judgment and decree dated 27 June 2013 and the enrollment of the petitioners in pursuance of the aforesaid statement, shall be without prejudice to the rights and contentions of the aforesaid respondents as well as the society in notice of motion no. 550 of 2016. The said notice of motion will be decided in accordance with law and on its own merits without in any manner being influenced either by this order or the circumstance that the respondents and the society have complied with the judgment and decree dated 27 June 2013 without prejudice to their rights and contentions. Accordingly, enrollment of the petitioners and the issuance of share certificates in their favour, will obviously be subject to the decision in notice of motion no. 550 of 2016 in short cause suit no. 2160 of 2012.

4] Whatever the past conduct of respondent nos. 1 and 2, in view of their present reasonable approach, there is no necessity to

continue with the present contempt proceedings. Needless to add that in case, respondent nos. 1 and 2 do not comply with their statement cum undertaking rendered today, the petitioners will undoubtedly have a right to re-institute the contempt petition, perhaps, alleging aggravated contempt. Mr. Redekar, learned counsel for respondent nos. 1 and 2 however submits that the said respondents will ensure that no such occasion arises.

5] With the aforesaid directions, the present contempt petition is disposed of.

6] All concerned to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)

Chandka