

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

SUO MOTO CONTEMPT PETITION NO.450 OF 2015

High Court on its Own Motion .. Petitioner

vs.

Ulacon Co-operative Housing Society & Ors. .. Respondents

Ms.Usha R. Tiwari for the respondent nos.1 and 2

**CORAM : K. K. TATED, J.
DATED : 09/02/2016**

P.C.:

. Heard the learned counsel for the respondent nos.1 and 2.

2 This Contempt Petition is registered by this court considering the order dated 30.6.2015 passed by Maharashtra State Co-operative Appellate Court, Mumbai in Contempt Petition No.1 of 2014 in Appeal from Order No.57 of 2014.

3 In the present proceedings, initially Maharashtra State Co-operative Appellate Court, Mumbai passed order on 16.1.2015 in Appeal from Order No.57 of 2014 directing contemnors to issue a No-Objection Certificate in favour of appellants. In that matter Mathew John, Sofia Mathew John and Marissa Mathew John were granted liberty to apply for separate electricity connection for their flat no.A-3 Ulacon Co-operative Housing Society 118, Anthony Street,

Santacruz (E), Mumbai 400 055 in their name. The said order was communicated by appellant original claimant to the Contemnor. Appellant by their letter dated 23.1.2015 requested contemnor to issue NOC for applying electricity connection in their name. At that time, said Arun Kharat, Secretary of the Society was busy in his relatives marriage. Thereafter, society issued circular dated 28.1.2015 calling Special General Body Meeting on 4.2.2015 of their members. On 4.2.2015 Special General Body Meeting passed resolution to issue No-Objection Certificate to the appellant. The said resolution dated 4.2.2015 passed by the Society reads thus:

“RESOLUTION

In the special general body meeting held on 4th February, 2015 in Dr.Meena Prabhu's clinic, it was considered and resolved that a No Objection Certificate (N.O.C.) be issued forthwith in the name of Mr.Mathew John residing in flat A-3, for obtaining a fresh electricity connection as per the Maharashtra State Co-operative Appellate Court at Mumbai Division Bench constituted by Shri S.B.Savale, President and Shri R.M.Palhade, member appellate order no.57 of 2015 dated 16.01.2015.”

4 Thereafter contemnor tried to serve copy of resolution as well as No-Objection Certificate to the appellant for obtaining new electricity connection in their flat. As there was delay on the part of Society to comply the order dated 16.1.2015 passed by Appellate Court on the basis of Org. Appellant's application Appellate Bench Registered

Contempt Petition 1 of 2014. In that Contempt Petition the respondent appeared and filed their reply. After considering the submissions of both the sides, the appellate bench of the Maharashtra State Co-operative Appellate Court by order dated 30.6.2015 held that the contemnor nos.1 and 2 have committed contempt of order passed by Appellate Bench of Co-operative Court in A.O.No.57 of 2014 dated 16.1.2015 and forwarded papers to this court for taking appropriate action against the contemnor.

5 The learned counsel for the respondent filed Affidavit-in-Reply dated 27.11.2015 duly affirmed by Arjun Yadu Kharat, Hon. Secretary of Society. In that affidavit, respondent specifically stated that the Society complied the order dated 16.1.2015 passed by Maharashtra State Co-operative Appellate Court, Mumbai. She submits that the copy of Resolution as well as No-Objection Certificate was tried to serve appellant but they failed and neglected to accept the same. Hence, contemnor forwarded copy of Special General Body Meeting along with No-Objection Certificate to the appellant by courier. Same was duly served on appellant. She submits that in this way they complied the order dated 16.1.2015 passed by Co-operative Appellate Court, Mumbai in Appeal from Order No.57 of 2015. She submits that there was delay on the part of Society to issue resolution and No-Objection Certificate in favour of appellant because, before taking any decision on behalf of Society, they have to call AGM. He submits that as per the order passed by Appellate Court on 16.1.2015, respondent contemnor issued No-Objection Certificate in favour of appellant. She further submits that during the pendency of the present proceeding, the electricity meter is already installed at appellants premises. In support

of this contention, the learned counsel for the contemnor relies on paragraph 27 of the Affidavit-in-Reply which reads thus :

“27. I say that it is on the said NOC dated 04.02.2015, duly received by the Petitioners' said Advocate on 7.2.2015, the petitioners have been given new electricity connection and new electric meter is installed at the said flat and electricity supply is restored to the said flat much prior to the said order dated 30.6.2015 passed by Hon'ble Co-operative Appellate court, whereby it has been held that the Respondent No.1 & I have committed the Contempt of court. Hereto annexed and marked as Exhibit “R” is a copy of the said Order dated 30.6.2015.”

6 The learned counsel for the contemnor submits that in the above mentioned facts and circumstances it is crystal clear that the respondent complied the order passed by appellate court directing contemnor to hand over No-Objection Certificate for taking electricity meter in a flat i.e. flat no.A-3 Ulacon Co-operative Housing Society 118, Anthony Street, Santacruz (E), Mumbai 400 055. Therefore there is no question of taking any action against the contemnor. She further submits that contemnor tendered their apology by their affidavit dated 27.11.2015 in paragraph 29. She submits that in view of the above mentioned facts and circumstances and as contemnor tendered their unconditional apology, this Hon'ble Court be pleased to set aside the notice issued by this court in Contempt Petition.

7 I have heard the learned counsel for the contemnor.

8 It is to be noted that in the present proceeding Maharashtra State Co-operative Appellate court passed order on 16.1.2015 in Appeal from Order No.57 of 2014 directing contemnor to issue No-Objection Certificate in favour of appellant for taking electricity connection. Thereafter appellant by their letter dated 23.1.2015 communicated the said order to the Society and requested to issue immediately No-Objection Certificate. As soon as the Hon'ble Secretary of the Society learnt about the order passed by Appellate court he immediately issued Circular dated 28.1.2015 calling Special General Body Meeting. Pursuant to the said circular Society held Special General Body Meeting on 4.2.2015 and passed resolution for issuing No-Objection Certificate in favour of appellant. Pursuant to the said No-Objection Certificate appellant obtained separate electricity meter.

9 Considering these subsequent facts, I do not find any reason to take any action against the contemnor. Apart from that, contemnor already tendered apology in paragraph 29 of the Affidavit-in-Reply dated 27.11.2015. Hence notice issued by this court to the contemnor is recalled. Contempt Petition stands dismissed.

(K.K.TATED, J.)