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

CIVIL APPLICATION NO. 94 OF 2016

in

CONTEMPT PETITION NO. 395 OF 2016

Smt. Ashrafunnisa Sardar Baig.

... Applicant.
(Intervener)

In the matter between

Smt. Ashrafunnisa Sardar Baig.

... Petitioner.

V/s.

M/s. Patni Builders and Developers & Ors.

... Respondents.

Mr. Ankit Tripathi a/w. M.J. Shetty i/b. Tripathi for the Applicant
and Petitioner.

Mr. Pratik Shah for Respondents 1 to 3.

CORAM : N.M. Jamdar, J.

15 November, 2016.

P.C. :-

The Petitioner has filed this Contempt Petition in
respect of the consent terms/decreed filed by the parties on 28 July
2009 in R.A.D. Suit No. 1118 of 2007.

2. By this Contempt Petition filed in the year 2016 the Petitioner has made a grievance that the Respondents have not honoured their undertaking given in the consent terms/decreed and this Court should proceed to take action against the Respondent under the Contempt of Courts Act. The proceedings under Contempt of Courts Act are quasi criminal in nature and the power has to be used sparingly and it is settled it cannot be used only to aid the litigants in execution of a decree. Under the consent terms certain rights have been created in favour of the Petitioner upon occurring of contingencies specified therein viz. construction of a new building. It is the contention of the Petitioner that new building has been constructed in the year 2016 and the Respondents have not honoured their undertaking to give the Petitioner permanent alternate accommodation in the said building. After the new building has been constructed by way of right accrued to the Petitioner under the consent terms/decreed, the Petitioner can always put the same for execution. The consent terms/decreed has not been set aside or varied till date and therefore, the Respondents are bound by the same.

3. Keeping the right of the Petitioner to execute the consent terms/decreed open, the Contempt Petition is disposed of. In view of disposal of the Contempt Petition, the Civil Application does not survive and is disposed of.

(N.M. Jamdar, J.)