

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

CONTEMPT PETITION STAMP NO.32263 OF 2015

Sheldon Rudolf Blanchette and another .. Petitioners

Versus

Kaiyomerz Cowas Palia .. Respondent

Mr. C. K. Tripathi a/w Ms. Bhagyashri Gawas for the Petitioners.

Mr. Kalpesh Joshi i/by Kalpesh Joshi Associates for the Respondent.

CORAM : R.M. SAVANT, J.

DATE : 4th AUGUST 2016

PC.

1 The contempt alleged in the above Contempt Petition is of the order dated 09.10.2015 passed by a Learned Single Judge of this Court (Mrs. Roshan Dalvi, J, as her Ladyship then was). The gravamen of the allegation is in respect of violation of clause (1) of the said order to the extent that the Plaintiff i.e. the Respondent herein has put the fencing beyond the width of six meters. Save and except the said allegation, there is no other allegation in the above Contempt Petition. The Learned Counsel appearing on behalf of the Respondent Mr. Kalpesh Joshi states that the Respondent is ready to restrict the right of way to six meters and put the fencing at the edge of the said six meters. However, the Learned

Counsel appearing on behalf of the Petitioners Mr. C. K. Tripathi states that the same be executed under the supervision of the City Survey Officer, Mumbai Suburban District. In view of the said submission, in my view, it would be just and proper to dispose of the above Contempt Petition by issuing the following directions :-

I) The Plaintiff in terms of the statement made by the Learned Counsel to restrict the right of way to the width of six meters and would put up the fencing at the edge of the said six meters. The same to be done under the supervision of the City Survey Officer, Mumbai Suburban District.

II) A copy of the instant order to be furnished to the City Survey Officer, Mumbai Suburban District by the parties. The City Survey Officer would fix the date for the aforesaid work to be carried out by prior notice to the parties to remain on site but not later than one week of the order being served upon him.

III) The parties agree to share the charges of the office of the City Survey, Mumbai Suburban District and in the event deposit is to be paid prior to the work being carried out, the

Learned Counsel agree to do the same accordingly.

IV) A copy of this order to be furnished to the Learned AGP Mr. A. R. Patil for being transmitted to the City Survey Officer, Mumbai Suburban District.

2 The Contempt Petition is accordingly disposed of.

3 The parties to act upon a copy of this order duly authenticated by the Court Shirestedar/Associate.

[R.M. SAVANT, J]