

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

**CONTEMPT PETITION NO.36 OF 2014
IN
APPEAL FROM ORDER NO. 1045 OF 2012
IN
SPECIAL SUIT NO.557 OF 2012
ALONGWITH
CIVIL APPLICATION NO.36 OF 2015**

Shri. Prashant Yeshwant Gokhale Petitioner

Vs.

Manda Yeshwant Gokhale Resp. no.1, deleted as
per courts order
dt.18/2/16

Shri. Dilip Yeshwant Gokhale & Ors..... Respondents

Mrs. Jai Kanade, Advocate for the Petitioner.

Mr. Rushabh Sheth, Advocate for the Respondents.

Coram : **Smt. R.P SondurBaldota, J.**

Date : 16th April, 2016

P.C.

1 By this petition, the petitioner seeks action for contempt against respondent no.2, his brother for wilful breach of the order dtd. 28th April, 2012 directing maintenance of status-quo, in respect of the properties in dispute which was continued

until 18th September, 2012 by the trial court and the order dtd.1st November,2012 passed by this court in Appeal from Order No.1045 of 2012. This means that between 19th September, 2012 and 31st October, 2012, there was no interim order operating in the suit.

2 The petitioner has filed the suit herein interalia for partition of the joint family property and his 1/4th share therein. The movable and immovable suit properties include 3500 equity shares belonging to Yeshwant Gokhale, the father of the parties to the petition and the property of M/s Ketan Hotel situate at Plot No. 299/19A, Ferguson College Road, Pune. The alleged act of breach on the part of respondent no.2 is to transfer 3500 equity shares from the father's name to his own name and carrying out the work of repairs, which is described as illegal construction by the petitioner to the building of Ketan Hotel.

3 According to the petitioner, Yeshwant Gokhale, father of the parties was the owner of properties worth more than Rs.100.00 Crores upon a modest estimate. He died on 6th April, 2011 at Pune leaving behind his widow Manda (original respondent no.1), the petitioner, respondent no.2, his younger son and respondent no.3, Manisha, the daughter. During the pendency of the present proceedings, Manda died leaving behind the petitioner, respondent no.2 and respondent no.3 as the only heirs.

4 The shares in question are 3500 shares are of a Company by name Gokhale Recreational Resorts Ltd. The petitioner alleges that respondent no.2 illegally transferred 3500 shares to his own name on 9th September, 2011 and the transfer has been registered with Registrar of Companies on 17th October, 2012. Undisputedly, on 9th September, 2011, no interim relief was in operation. Therefore transfer of the shares from the name of Yeshwant to respondent no.2 cannot be said to be in breach of the order of status-quo. Mrs. Kanade, the learned advocate for the petitioner submits that though the shares had been transferred on 9th September, 2011, the registration thereof with Registrar of Companies was on 17th October, 2012, on which date the order directing the parties to maintain status-quo was very much in operation. In my opinion, the registration of the transfer of shares with Registrar of Companies is only an act consequential to transfer of the shares. Therefore, even if the registration takes place subsequently, it cannot be said to be breach of interim orders.

5 As regards the property of M/s Ketan Hotel, respondent no.2 claims that he is only getting it repaired in accordance with the repairs permission obtained from the Municipal Corporation. He denies that there is any unauthorised work being carried out, therein. There is nothing in the petition to indicate that there is

any unauthorised work undertaken by respondent no.2. All that the petitioner has produced are the photographs of the facade of the building of Ketan Hotel. The photographs indicate that the building of Ketan Hotel is being painted as claimed as claimed by respondent no.2. In the circumstances, there is no substance in the allegations of breach of the orders of the court. Hence, the contempt petition is dismissed.

6 In view of dismissal of the Contempt Petition, the Civil Application does not survive. The same is accordingly disposed off.

(Smt. R.P. SondurBaldota, J.)