

Amrut

IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL REVISION APPLICATION NO.37 OF 2017

Shanti Antonio Mascarenhas

.... Petitioner

Versus

Deepak Vithal Kauthankar (Dec)

Through his Lrs and Ors.

.... Respondents

Mr. Vedraj Toraskar, Advocate for the Petitioner.

Coram : N.M. Jamdar, J.

Date : 5 December 2017.

P.C.:

Heard the learned counsel for the Petitioner.

2. Firstly, the Civil Revision Application is against an order passed by the learned Civil Judge in an application under Section 12 of the Contempt of Courts Act may not be maintainable. Assuming these proceedings are under Article 227 of the Constitution of India, the question is whether the view taken by the learned Civil Judge in holding that there was no adequate material to come to the conclusion that there was any contempt committed by the Respondents, is correct or otherwise.

3. The learned counsel for the Petitioner sought to contend that the Respondents had committed contempt of the Court during the execution proceedings by carrying out certain construction of RCC frame work. The learned Civil Judge after considering the material, by a detailed order, came to the conclusion that the report relied upon by the Petitioner is not reliable to draw a conclusion that there has been violation of the order of the Court.

4. The petition does not arise from the order passed in execution proceedings as such but arises from the proceedings taken out to punish the Respondents under Contempt of Courts Act. The parameters of these two proceedings are entirely different. The view taken by the learned Civil Judge that there were no certain details regarding the existing structure is a possible view of the matter. Once the Civil Judge has considered the material on all perspective and has held that it is not possible to punish the Respondents for contempt of Court in a petition, it is not possible to sit in an appeal over the said decision. Sentencing a party for contempt of Court is not to be lightly resorted to. The Petitioner can always pursue her rights in execution proceedings which are pending. Keeping the contention of the Petitioner open as regards the execution proceedings, the Civil Revision Application is disposed of.

N.M. Jamdar, J.