

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

(SUO MOTO) CONTEMPT PETITION NO.280 OF 2015

IN

SECOND APPEAL NO.482 OF 2014

High Court on Its Own Motion

...Petitioner

vs.

Indirabai w/o Maruti Waghmode & Ors.

...Contemnors

....

Mr. Makarand Bakore, i/b. Sudam Kale, for Respondent Nos.1B, 1D and 1E.

....

CORAM : S.C. GUPTE, J.

DATED : 13 FEBRUARY 2017

P.C. :

. Heard learned Counsel for Respondent Nos. 1B, 1D and 1E.

2. The subject matter of controversy in this petition concerns a decree of eviction, which was resisted by an obstructionist. This decree was passed in a suit filed by the landlord, one Basappa, against his tenant, Maruti Waghmode. The decree was confirmed in appeal. The legal representatives of the judgment debtor Maruti Waghmode, namely, Respondent Nos. 1B, 1D and 1E herein, challenged this decree of eviction in a writ petition. The writ petition was summarily dismissed by this Court. Whilst dismissing the petition, this Court directed that the decree for possession shall not be executed till 31 January 1997 and that an undertaking to that effect shall be filed by legal representatives of the

judgment debtor Maruti Waghmode to vacate the suit premises by 31 January 1997. It was the case of the original Plaintiff, now represented by his legal heirs, who were Respondents to the Second Appeal, that the legal representatives of Maruti Waghmode did not file any undertaking within the stipulated time and, on the contrary, they set up the obstructionist, who was Appellant before the Court in Second Appeal No.482 of 2014. On these facts, a contempt notice was issued by this Court against the legal heirs of Maruti Waghmode, who are Respondents to this suo motu contempt petition. Affidavits-in-reply filed on behalf of Respondent Nos. 1B, 1D and 1E, all dated 13 October 2015, make it clear that after intimation to them of the order passed by this Court in Writ Petition No.3177 of 1996, they vacated the suit premises, but due to oversight, failed to submit an undertaking on record within the stipulated time as per the order passed in that writ petition. They tendered an unconditional apology for not having done so. The affidavits were taken on record and one week's time was granted to the Respondent Contemnors to file an additional affidavit disclosing as to whether the original obstructionist, namely, Gangabai, the Appellant in Second Appeal No.482 of 2014, had handed over possession to the landlord or not. An additional affidavit has been filed by Respondent No.5 on behalf of all Respondents as of 26 September 2016 confirming that the original obstructionist handed over possession to the landlord after this Court had issued contempt notice referred to above. This is not contested by the legal heirs of the landlord Basappa, who are Respondents to the Second Appeal.

3. In the premises, nothing survives in the suo motu contempt

petition. The suo motu contempt notice issued by this Court on 6 May 2015 and bailable warrants issued in pursuance thereof are, accordingly, discharged and the suo motu contempt petition is disposed of.

(S.C. GUPTE, J.)