

Atul

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO. 374 OF 2011

Balasaheb Shankarrao Shinde	...Petitioner
<i>Versus</i>	
Dnyandev Shankarrao Shinde	...Contemnor

None for the Petitioner.
Mr Uday Warunjikar, *for the Contemnor.*

CORAM: G.S. PATEL, J
DATED: 29th June 2017

PC:-

1. The Contempt Petition will have to be dismissed. Whatever be the merits of the Petitioner's grievance, the contempt jurisdiction is not the appropriate one. The Respondent has undoubtedly transacted with part of the property described at page 12 of the Petition. This is Gat No. 254/2, Old No. 441. The Respondent seems to have dealt with Plot No. 14 out of this land. Paragraph 2(a) of the Petition says this:

“2(a) The aforesaid suit was filed by the Petitioner in the Court of Civil Judge, Senior Division, Baramati for partition and separate possession of agricultural lands and house properties more particularly mentioned in plaint at paragraph no.1A to 1E. **In the said suit, the property**

bearing Survey No. 441/2 (Part) (inadvertently mentioned as Survey No. 141/1 (Part)) admeasuring 4 Ares situated proposed Rajendra Housing Cooperative Society Limited within the limit of Indapur Municipal Council was added at paragraph no. 1C at Sr. No. 6 in the plaint as suit property.”

(emphasis supplied)

2. From this it is self-evident that the Petitioner had mentioned the property as Survey No. 141/2 (part) and it is only now that he says this was inadvertent, and what he actually mean was Survey No. 441/2 (part). The contempt jurisdiction cannot be used to obtain modifications in this fashion.

3. The Contempt Petition is dismissed. There will be no order as to costs.

(G. S. PATEL, J)