

ssp

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO.366 OF 2015 with
CIVIL APPLICATION NO.61 OF 2015

Ms Sharmishtha Chetan Dhotre ...Petitioner
vs.
Chetan Vasant Dhotre ...Respondent

Mr.Priyal G. Sarda for the Petitioner and the
applicant
Mr.R.D.Soni i/b Mr.K.N.Kandekar for the respondent
No.1
Mr.G.A.Kantharia i/b Mr.Sachin Kanker for respondent
No.2
Mr.Manish Pabale, AGP for the respondent No.3
Mr.M.R.Mandawgade, OSD, Court Receiver a/w
Dr.M.S.Deshpande, Court Receiver, High Court, Bombay

CORAM : A.S.OKA, &
SMT.ANUJA PRABHUDESSAI, JJ.
DATE : MARCH 16, 2017

P.C.:

1 Heard the learned counsel for the petitioner, the learned counsel for the first respondent and the learned counsel for the second respondent. The learned counsel for the parties have tendered across the bar consent terms dated 28th February 2017. The learned counsel state that the consent terms have been duly signed by the petitioner, the first respondent and the second respondent as well as their respective Advocates. The learned counsel state that the consent terms have been signed by the first respondent before Shri Rupinder Hans, Barrister, Solicitor and Notary Public, Hans Law

Firm, 305-216 Chrislea Road, Woodbridge, ON L4L 835, Canada. There is a certificate appended to the consent terms on behalf of the Hon'ble Minister of Government, Consumer Services of the Government of Canada, Ontario certifying that Shri Rupinder Hans is a Notary Public in Ontario who has been authorised to do several acts as stated therein and that the signature and the seal of the said Notary Public has been verified. There is an endorsement of Shri G.S.Hattimare, Vice Consul, Consulate General of India, Toronto on the said certificate.

2 The learned counsel for the first respondent states that the original certified copy of the order dated 17th March 2011 as provided in clause 12 of the consent terms has been today handed over to the Advocate for the petitioner in the Court. The Advocate for the petitioner confirms the said fact. The learned counsel for the second respondent and the learned counsel for the petitioner on instructions of the respective clients state that they have signed the consent terms voluntarily and they have no objection if the Contempt Petition is disposed of in terms of the consent terms. The learned counsel for the first respondent also makes the same statement on behalf of the first respondent.

3 The breach alleged in this Contempt Petition is of the orders passed in the Family Court Appeal No.196 of 2014. The consent terms tendered across the bar which are taken on record and marked 'Z-1'

for identification record the settlement of all the disputes between the petitioner and the first respondent. Undertakings recorded in the consent terms deserves to be accepted as the consent terms show settlement of all the subsisting disputes between the petitioner and the first respondent. It cannot be said that there is any wilful breach or disobedience of the order of the Court by the first or second respondents.

4 The Court Receiver, High Court, Bombay was appointed as the Receiver by order dated 19th October 2015. As per the order of the Court, the Court Receiver has taken symbolic possession of the flat as described in clause 7 of the consent terms tendered today. The parties have agreed that the Court Receiver should be discharged and the possession shall be handed over to Mrs.Suman Dhotre by the Court Receiver. A sum of Rs.10,648/- is payable by way of charges to the Court Receiver. The first respondent will have to pay the said charges.

5 It is obvious that on disposal of the Contempt Petition, all notices, warrants, Red Corner Notices etc. issued against the first respondent on the basis of the orders passed in the contempt petition will stand discharged.

6 Accordingly, we pass the following order:

(I) Contempt Petition is disposed of in terms

of consent terms taken on record and marked 'Z-1' for identification. Undertakings in the consent terms are accepted;

(II) The Court Receiver shall hand over a symbolic possession of the flat in question to the Mrs.Suman Dhotre. We direct the first respondent to deposit a sum of Rs.10,648/- in the office of the Court Receiver within a period of two weeks from today. The possession the flat in question shall be handed over only after the deposit of the said amount. The Court Receiver after handing over the possession of the flat shall stand discharged without passing account;

(III) After handing over the possession to the said Suman Dhotre, the Court Receiver shall issue intimation in writing to the Secretary of the concerned co-operative society giving intimation of the order of discharge and the vacation of order of attachment of the said flat;

(IV) Under the order dated 8th October 2005, arrest warrant and Red Corner Notice was ordered to be issued against the first respondent. The Government of India was directed to initiate extradition proceedings against the first respondent. We make it clear that arrest warrant and Red Corner Notice issued against the first respondent in terms of the said order stand cancelled;

(V) In view of disposal of the Contempt Petition, the directions issued to the Ministry

of External Affairs to initiate action of extradition stand recalled;

(VI) Contempt Petition is disposed of by discharging the notice issued to the first respondent;

(VII) Civil application does not survive and the same is disposed of.

(ANUJA PRABHUDESSAI, J.)

(A.S.OKA, J.)