

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

CONTEMPT PETITION NO. 21 OF 2017

Nitya Peerbhoy ..Vs.. Sajid Peerbhoy

Office Notes, Office Memorandum of appearances, Court's orders or directions & Registrar's orders.	Court's or Judge's orders
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Mr. Mohan Bir Singh I/by. Pooja Jalan for Petitioner.

Mr. Noshervan Vakil a/w Lalit Katariya a/w Ali Kazmi a/w Insiya Ali I/by. Katariya & Associates for Respondent.

CORAM : K. K. TATED, J.

DATE : JULY 05, 2017.

P.C. :

1. Heard learned Counsel for parties.
2. This Contempt Petition is preferred by Petitioner-wife for taking action against the Respondent-husband for violating the orders passed by the Family Court at Bandra by creating third party right, title and interest in respect of the property i.e. 1 Acre land together with a farm house, Pump Cabin House and Servants Quarter bearing Gat No. 657/1 situated at village Zirad in Alibaug. After arguing for some time both the Counsel submit that matter can be settled out of the Court.

3. The learned Counsel for Petitioner submit that in the present proceedings they have filed Suit No. 33 of 2016 before the Civil Judge, Senior Division at Alibaug for setting aside the Sale Deed dated 13th April, 2012 executed by the Respondent in favour of Defendant No. 2 - Niloufer Patel in that suit. He submit that if Sale Deed is cancelled by the Respondent, then they do not want to prosecute the Respondent under the Contempt of Court's Act.

4. At this stage learned Counsel Mr. Vakil appearing on behalf of Respondent as well as Defendant no.2 - Niloufer Patel in said suit after taking instructions from the Respondent who is present in Court make statement that they are ready and willing to file undertaking, they will make application in Alibaug Court for decree in terms of prayer clause (a) of that Suit. To that effect Respondent filed Affidavit cum undertaking dated 5th July, 2017.

5. In similar way, the purchaser of the suit property Niloufer Patel – Defendant No.2 in Suit No. 33 of 2016 also filed Affidavit cum undertaking.

6. The undertakings given by the Respondent as well as Nilopher Patel are taken on record and marked “X” collectively for identification.

7. The undertakings given by the Respondent as well as Nilopher Patel who are present before this Court are accepted.

8. It is made clear that the Respondent is restrained from creating any third party right, title and interest in respect of suit property for 12 weeks from the date of decree passed by the Civil Judge, Senior Division at Alibaug in Suit No. 33 of 2016.

9. Liberty is granted to the Petitioner to take appropriate steps according to law to protect her interest in respect of the suit property.

10. If any application filed by the Petitioner in court/authority, that application to be decided by the concerned court/authority on its own merits, without influencing the order passed by this Court.

11. Considering these facts, nothing is survived in Contempt Petition. Same stand disposed of, as infructuous.

(K.K.TATED, J.)