

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**CONTEMPT PETITION NO.37 OF 2016
IN
SUIT NO.1155 OF 1993**

Prakash Sohanlal Shah & Anr.

....Petitioners

Vs.

Arihant Tower Co-op. Hsg.Soc.Ltd.& Ors.

....Respondents

Mr. M.S. Bhandari i/by Dharmesh Jain for the Petitioners.

None for the Respondents.

CORAM : K.R.SHRIRAM, J.

DATE : 22nd SEPTEMBER, 2017

P.C.:

1. This Contempt Petition is filed, as suggested by Mr. Bhandari for breach of Consent Terms dated 17.10.2003. Mr. Bhandari submitted that clause 3 of the Consent Terms provided for a collapsible gate to be installed from the staircase to the passage in front of the lift on the 15th floor, for security purpose. The key of the collapsible gate will remain with the society and the timing of the collapsible gate will be fixed at the time of Annual General Meeting. Mr. Bhandari states that the collapsible gate has been fixed and keys are with the society and timings were also fixed at the AGM of 2003. Mr. Bhandari states that now when the petition was filed, society was changed the timing from 6.00 a.m. to 6.00 p.m. without considering the objections of the petitioners herein. According to Mr. Bhandari, it amounts to contempt.

2. I do not agree with Mr. Bhandari. The order requires installation of the gate for security purpose and for fixing of timing by the

members of the society at the AGM. This was in the year 2003 when the time was fixed and the petitioner did not have any grievance. Thus, because the members of the society in the AGM decided to fix or change the timing, cannot be construed as contempt of this Court.

3. Petition, therefore, dismissed.

(K.R. SHRIRAM, J.)