

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

CONTEMPT PETITION NO.8 OF 2015

Late Raghu Gana Nale
(Deceased his legal heirs)
Balaso Gana Nale & Anr. ... Petitioners
Vs.
Tukaram Babu Nale & Ors. ... Respondents

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Mr. Satyajeet P. Dighe I/b. Mr. Sachin Nerkar for Petitioners.
Mr. K. P. Shah for Respondent Nos.2, 3a and 4.

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CORAM : M. S. KARNIK, J.

DATE : 27th AUGUST, 2019.

P. C.:

1. Heard learned counsel for petitioners and learned counsel for respondent Nos.2, 3a and 4.
2. The present Contempt Petition is filed alleging breach of the consent terms dated 25.1.2000. The contempt petitioners alleged breach of Clause (I) of the consent terms which reads thus :-

“(I) In the event the petitioner desires to sell his land in the near future the petitioner shall first offer these lands for purchase to the present respondents in writing by an appropriate intimation at the prevailing market rate. In case the Respondents fail to accept the offer the petitioner shall be free to sell it to any other person he so desires.”

3. It is the case of the petitioners that in terms of the consent terms arrived they had a first right to purchase the suit land. Instead of the said land being offered to the petitioners, the land was sold by the respondent Nos.2, 3a, 4. It is therefore apparent that the land has been sold by contemnors to one of the respondents who is party to the consent terms. It cannot be said that there is any willful or intentional disobedience of the consent terms so as to initiate action under Contempt of Court Act. In any case for enforcing Clause (I) of the consent terms, the contempt petitioners have already instituted Civil Suit No.392 of 2011 before the Court of competent jurisdiction which obviously will be decided on its own merits and in accordance with law.

4. In this view of the matter, in my opinion, it can not be said that willful breach of the order passed by this Court is committed by the contemnors. The Contempt Petition is therefore dismissed. Notice issued to the contemnors is discharged.

(M. S. KARNIK, J.)