

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 337 OF 2018

Mr.Rameshchandra Raghunandan Sharma. ... Petitioner.
V/s.
Waman Balu Patil and others. ... Respondents.

Mr.A.S.Khandeparkar with Mr.Rajdeep Gude i/b. Khandeparkar
and Associates for the petitioner.
Mr.Sanjay S. Gawde or respondent Nos.1 to 5.

CORAM : A.S.OKA AND M.S.SANKLECHA, JJ.

DATE : 13th March 2019

P.C.:

Heard the learned counsel appearing for the petitioner. The breach which is alleged is of the orders dated 22nd September 2009 and 9th August 2010 passed by a Division Bench of this Court in Civil Application No.3688/2009 in First Appeal No.1354/2009.

2. According to the case of the petitioner, in the civil suit filed by the petitioner, a temporary injunction was granted by the learned Civil Judge, Senior Division, Panvel by the order dated 12th July 2005. The said order of injunction continued to operate till 13th May 2009 when the suit filed by the petitioner was dismissed. Thereafter, the aforesaid two orders were passed in the first appeal preferred by the petitioner against the said order. The allegations of breach are based on two agreements which are annexed to the petition which have been executed on 28th

October 2008 by the respondents. Thus, these agreements have been executed during the pendency of the suit.

2. Thus, if the case made out by the petitioner is correct, at highest, the conduct of executing the said agreements will amount to breach of the interim order which was allegedly operating till the dismissal of the suit.

3. Therefore, it cannot be said that there is a breach committed by the respondents of the aforesaid two orders passed by the Division Bench of this Court in first appeal. Therefore, no case is made out for initiating action under the Contempts of Court Act, 1971. The contempt petition is disposed of. Accordingly, notice issued on 31st August 2018 is discharged. We make it clear that if permissible in law, it will be open to the petitioner to take out appropriate proceedings on the basis of allegations of breach of the interim order passed by the trial Court.

(M.S.SANKLECHA, J.)

(A.S.OKA, J.)