

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****CONTEMPT PETITION (STAMP) NO.27792 OF 2019****IN****APPEAL FROM ORDER (STAMP) NO.27167 OF 2019**

Shyam Roopchand Jaisingh & Ors. ...Petitioners
(Original Appellants/Plaintiffs)

vs.

The Municipal Corporation of Greater
Bombay & Ors. ...Respondents
(Original Defendants)

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Mr. Amogh Singh, i/b. Mr. D.P. Singh, for the Petitioners.

Mr. Vinod Mahadik, for Respondent Nos. 1 and 2-MCGM.

Mr. R.B. Mokashi, a/w. Mr. Aditya R. Mokashi, for Respondent No.3 in
Contempt Petition.

Mr. Mukesh M. Vashi, Senior Advocate, i/b. Mr. M.P. Vashi Associates,
for Respondent No.3 in AOST/27167/2019.

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CORAM : S.C. GUPTE, J.

DATED : 22 OCTOBER 2019

P.C. :

. This contempt petition alleges breach of a status-quo order passed by this Court on 9 October 2019. The status-quo order of 9 October 2019 *inter alia* required Defendant Nos. 3 and 4 to the original suit, not to make any construction or carry out any repairs to the suit structures, which are the subject matter of the present suit. As regards

the status of the construction or repairs, if any, already carried out as of 9 October 2019, the same was to be ascertained by a Court Commissioner. The Registry was accordingly directed to appoint an officer as a commissioner for finding out such status. The Court is informed that the commissioner has not made any visit as of date in pursuance of the order. It is submitted that, in the circumstances, Defendant Nos. 3 and 4 are going ahead with further construction/repair work at site and have been bringing labour and material to site to do so. This position is being contested by Defendant Nos. 3 and 4. In the premises, it is imperative that the Court commissioner visits the site expeditiously and ascertains the status of the suit property in terms of the structure/s existing at site. The Registry is, accordingly, directed to immediately designate an officer of this Court as a Commissioner in compliance with directions issued in clause (IV) of para 2 of the order of 9 October 2019. It is made clear that representatives of the plaintiffs as well as Defendant Nos. 3 and 4 may remain present during the course of inspection of site by the Court appointed Commissioner in terms of the order of 9 October 2019. Telephonic intimation may, accordingly, be given to the Advocates of the parties. It is clarified that as of now, no further work shall be carried out, no worker or material shall be brought to site, and no application shall be made to the planning authority or the electricity company in respect of the suit structure/s pending the hearing of the plaintiffs' notice of motion. If any clarification or modification is sought of the status- quo order passed by this Court on 9 October 2019, an appropriate application may be made to the trial court. As and when such application is made, the same shall be decided on its own merits.

All rights and contentions of the parties in that behalf are kept open.

2. In view of this clarification, and liberty reserved unto the parties to apply to the trial court, learned Counsel for the plaintiffs does not press his contempt petition. The contempt petition is accordingly disposed of as not pressed.

Smita
Gonsalves

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Smita Gonsalves
Date: 2019.10.22
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(S.C. GUPTE, J.)