

Arun

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**ORDINARY ORIGINAL CIVIL JURISDICTION**  
**CONTEMPT PETITION NO. 79 OF 2011**  
**IN**  
**NOTICE OF MOTION NO. 952 OF 2011**  
**IN**  
**SUIT NO. 629 OF 2011**

|                         |                |
|-------------------------|----------------|
| Paul K Feranandes       | ...Petitioner  |
| <i>Versus</i>           |                |
| Devendra H Mantri & Ors | ...Respondents |

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**Mr CN Chavan**, *for the Petitioner.*  
**T Pereira**, *i/b M/s Kaushik & Company, for Respondents Nos. 1, 2 and 4.*  
**Ms Swati H Sagvekar**, *for Respondent No. 3.*

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**CORAM: G.S. PATEL, J**  
**DATED: 10th January 2019**

**PC:-**

1. There is no substance to the Contempt Petition. The contempt is alleged of an order dated 4th May 2011 (Dr DY Chandrachud J, as he then was) granting an injunction in terms of prayer clause (a) of the Plaintiff's Notice of Motion against the Defendant from creating any third party rights, title and interest in a suit flat B-702, 7th floor, Hareshwar Apartment, Somawar Bazar, Malad (West), Mumbai 400 064. That order was made when

Defendants Nos. 1, 2 and 4 were present but not Defendant No. 3. On 23rd July 2011 the Advocates for Defendants Nos. 1, 2 and 4 wrote to the Plaintiff pointing out that the Plaintiff had suppressed that third party rights had *previously* been created in the suit property and the Plaintiff himself had accepted this in paragraph 11 of a complaint No. 675 of 2007 filed before the Consumer Disputes Redressal Forum. Ms Sagvekar for Defendant No. 3 shows me a copy of that complaint and in paragraph 11 the Plaintiff, the Complainant therein, has indeed clearly stated that third party rights had *already* been created in that flat.

2. Ms Sagvekar also pointed out that the Petitioner in the Contempt Petition is not pointing out that the final order on the Notice of Motion was of 2nd September 2011 (by SJ Vazifdar J, as he then was). The Court noted the statement by the Defendants that they have no subsisting interest in the flat and that they had transferred it pursuant to an agreement dated 3rd March 2006 to one Rajendra Salot, who was by then in possession. The Court specifically observed that the order would not affect a third party. It directed the Defendants not to further deal with the flat. Vazifdar J clarified that his final order in the Notice of Motion would not affect the rights of any third party and granted liberty to the Plaintiff to adopt appropriate proceedings against the third party.

3. I am informed that the Plaintiff has already filed a separate suit. It is difficult to see how any case is made out for an action in contempt.

4. The Contempt Petition is dismissed with no order as to costs.

**(G. S. PATEL, J)**