

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY AND ORIGINAL CIVIL JURISDICTION
CONTEMPT PETITION NO.105 OF 2018
IN
NOTICE OF MOTION NO.1064 OF 2017
IN
SUIT NO. 354 OF 2017**

R. K. Builders ..Petitioner
Vs.
Kedarnath Co-op Housing Sty Ltd. & Ors ..Respondents

Mr. Sahil Saiyed for Petitioner
Mr. Rakesh Kumar a/w Ms Kajal Thallapalli and Ms Diksha Tripathi I/b M/s
Legal Vision for Respondent Nos.1 to 5
Mr. R. Y. Sirsikar for MCGM

**CORAM : K.R.SHRIRAM, J.
DATE : 29th MARCH, 2019**

P.C.:

1 This petition has been filed for contempt against respondent nos.1 to 5, (a) of order dated 13th July 2017, (b) of orders dated 6th October 2017 and 6th November 2017. Going in the reverse order, as regards the orders dated 6th October 2017 and 6th November 2017, there was nothing indicated as to which part of the order has been willfully and deliberately breached by respondent nos.1 to 5.

2 As regards order dated 13th July 2017, counsel submitted that there is a breach of directions given in paragraph 9(ii)(a), (iii) and (x), Mr. Saiyed stated that petitioner was to only remove lock put on the grills at the

entrance of recreation ground. Respondent nos.1 to 5 have broken the gate. Mr. Saiyed showed certain photographs. At the same time, there is nothing to indicate that it was respondent nos.1 to 5 who broke open the gate. Moreover, the order does not state that respondent nos.1 to 5 shall not do anything to the gates.

3 As regards paragraphs 9(iii) and (x) taken together, Mr. Saiyed submitted that as per the order, members of respondent nos.1 to 5 could use the recreation ground only for recreation purpose. Whereas, members of respondent nos.1 to 5 are throwing debris in the recreation ground and also using the recreation ground for parking of vehicles.

4 Mr. Rakesh Kumar appearing for respondent nos.1 to 5 states that, (a) none of the members have thrown any debris and in fact it is petitioner who has been throwing the debris, (b) the recreation ground is being used to park the vehicles of some of the members, but as and when the court permits petitioner to construct a building on the recreation ground, within 24 hours the members will stop parking the vehicles or remove the vehicles.

5 I am not even holding this as contempt because the photographs that was shown by Mr. Saiyed of recreation ground shows that

it has not been maintained like a recreation ground. Nothing seems to have been done and it is like an unmaintained open ground. Therefore, I cannot come to a conclusion that there has been a willful or deliberate disobedience of orders of this court. Contempt Petition dismissed.

6 At the same time, the undertaking given by Mr. Rakesh Kumar as noted in paragraph 4 above, is accepted.

(K.R. SHRIRAM, J.)