

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CONTEMPT PETITION NO. 275 OF 2018

IN

WRIT PETITION NO.1240 OF 2018 (D)

Deepak s/o Wasdeobhai Rathod and others, Nagpur

vs.

Smt.Neela Prabhubai Rathod, Nagpur

Office Notes, Office Memorandum of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri. N. L. Jaiswal, counsel for petitioners.
Shri. N. R. Rode, counsel for respondent.

CORAM : MANISH PITALE J

DATED : 19/11/2019

By this contempt petition, the petitioners contend that the sole respondent/alleged contemnor has committed contempt of order dated 03/09/2018 passed by this Court in Writ Petition No.1240/2018.

2. The operative portion of the said order reads as follows :-

“4. The purpose of this petition would be served if following order is passed and it is passed accordingly .

(i) The Executing Court is directed to dispose of final decree proceedings within **two months** from the next date already fixed in the matter, which is **September 12, 2018**.

(ii) All pending applications of either parties including the applications vide exhibits 536 and 538 filed by the petitioners shall be

decided at the time of final order to be passed in the final decree proceedings.

(iii) The respondent shall not be permitted to withdraw any amount till disposal of the final decree proceedings.

(iv) The parties undertake not to file fresh applications and co-operate with the court below for expeditious disposal of the final decree proceedings.”

3. It is claimed by the petitioners that the respondent misled the Court below before whom the final decree proceedings were pending and despite the direction given in clause (iii) of the above quoted order of this Court, an order was obtained from the Court below on the very same date i.e. on 03/09/2018 for withdrawing 15% of the amount towards rent concerning the suit property. It was contended that by misleading the Court below such withdrawal of amount was done by the respondent despite the specific direction of this Court to the effect that the respondent shall not withdraw any amount till disposal of the final decree proceeding.

4. On the other hand, it is contended on behalf of the respondent that there is no willful disobedience of the said direction of this Court and that the petitioner has not made out a case in the present petition at all seeking orders against the respondent.

5. A perusal of the material on record shows that the Court below passed its order dated 03/09/2018

permitting the respondent to withdraw 15% of the monthly rent deposited by the tenant, on an application filed on 27/07/2018 itself. Therefore, it was not as if the application for permission to withdraw the amount was filed by the respondent in the face of the aforesaid order dated 03/09/2018, passed by this Court. In the said pending application, the Court below appears to have passed the order on the very same day i.e. on 03/09/2018 when this Court had disposed of Writ Petition in above terms. There is nothing on record to show that order passed by this Court on 03/09/2018, was before the Court below when the application for permission to withdraw the amount filed earlier by respondent was taken up for consideration and order was passed on the same. The allegation that the respondent deliberately misled the Court below and obtained the aforesaid order of permission to withdraw the amount is not substantiated by the material on record and therefore this Court is of the opinion that no case for proceeding against the respondent is made out.

6. In any case, it is brought on record by the respondent that final decree proceedings have terminated and share of the respondent in amount of rent has been specified, to be granted to her. In these circumstances, this Court is of the opinion that there is no merit in the present petition and accordingly, it is dismissed.

JUDGE