

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO. 481 OF 2018
IN
SECOND APPEAL NO.469 OF 2014**

Shripati Krishna Chavan and Ors Petitioners.
V/s
Maruti Shripatrao Jadhav and Ors. Respondents.

Mr. Sandeep Phatak for the Petitioner.
Mr. Vishwanath S. Talkute i/b Sukumar R. Ghanavat for Respondent
Nos. 2 to 5.

CORAM: NITIN W. SAMBRE, J.

DATE: JANUARY 14, 2020

P.C.:-

1] This contempt petition is against the persons who are in possession of the suit property i.e. Tenants (Defendant Nos. 2 to 5). Original Appellants/Plaintiffs claim to have entered into agreement of purchase with land owner on 23/9/1982 based on which suit for specific performance came to be initiated. After the suit came to be dismissed, first appellate court confirmed the dismissal. As such, this second appeal.

2] While admitting second appeal against concurrent findings on 8/6/2015, this Court has restrained the Respondents from creating

third party interest in the suit property or changing its nature during pendency of appeal. The Respondents to the Contempt Petition i.e. Defendant Nos. 2 to 5 claimed to have created charge of Crop Credit Co-operative Society as they have obtained loans for cultivation of land. As such, it is claimed that there is willful disobedience

3] While countering the said submission, learned Counsel for the Respondents/original Defendant Nos.2 to 5 submitted that they continued in possession by virtue of their status as tenants over the suit property which is 3 Hectare 52 R and as loans are availed from Crop Credit Co-operative Societies and Co-operative Banks for quite longer time i.e. even before the date of initiation of suit. He further submits that an undertaking can be recorded that original Defendant Nos. 2 to 5 shall not be defaulters in repayment of the same and in case if appeal is allowed, it will be their responsibility to clear a charge, if any, of any of the financial institutions over the suit property.

4] It is also urged by the learned Counsel for the Respondents that, in any case, loan liability will not be increased to more than Rs 10

lakhs in any given year. As of today in case outstanding liability is more than Rs 10 lakhs, same will be repaid within a period of six months from today and appropriate affidavit of compliance will be filed in this Court within seven months from today. It is further submitted by the learned Counsel for the Respondents that in case if liability of loan is to be increased for more than Rs 10 lakhs, prior permission from this Court will be obtained.

5] In view of above statement which is made on instructions and which is accepted as an undertaking to this Court, Contempt Petition stands disposed of.

(NITIN W. SAMBRE, J.)