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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO.280 OF 2019**

Swati Shivaji Vatkari	...	Petitioner
<i>Versus</i>		
Arun Ramratan Atwal	...	Respondent

Mr. Samarth Moray, for Petitioner.
Mr. Jigar K. Agarwal, for Respondent
Mr. B.V.Samant, AGP, for State.

**CORAM: S.J. KATHAWALLA &
SURENDRA P. TAVADE, JJ.**

**DATE : 3rd NOVEMBER, 2021
(VACATION COURT)**

P.C. :

1. The Petitioner has by the above Contempt Petition alleged that the Respondent, who is a practicing Advocate, has committed contempt of the order dated 9th January, 2019, paragraph 12 of which reads thus :

“12. The Respondent appearing in person undertakes not to create any third party interest and/or transfer any immovable property till the issues noted hereinabove are determined by the Family Court Judge in the matter.”

2. It is submitted that the Respondent has executed a leave and license agreement in respect of the property which stands in the joint names of the Petitioner and the Respondent, for which the Petitioner too had contributed towards the sale consideration. The learned Advocate for the Petitioner has relied on the decision on

the Division Bench of this Court in the case of Asad Naeemuddin Moulvi and Anr. vs. State of Maharashtra and Ors.¹ paragraphs 6 and 7 of which are relevant and reproduced under :

“6. The entering into the leave and license agreement is sought to be justified on behalf of the Applicant by the learned Counsel Mrs. Deepa Chavan by contending that the same does not amount to creation of third party interest. We are not in a position to accept the said contention. There is a thin line separating between the third party rights and third party interest being created. WE would not permit the learned Counsel for the Applicant to indulge into semantics so as to justify the entering into the leave and license agreement by the Applicant. If the Applicant had any bonafides, it was necessary for the Applicant to seek the permission of this Court and thereafter, enter into the leave and license agreement, if this Court had granted permission.

7. Hence, prima facie we are of the view that entering into the leave and license agreement is in breach and violation of the Interim Order dated 24/10/2016 passed by the Division Bench of this Court. We therefore, issue notice to the Applicant i.e. the Respondent No.17 to the Petition – Asad Naeemuddin Moulvi to show cause as to why action for contempt should not be taken against him under Section 2(b) of the Contempt of Courts Act, 1971. The said show cause notice is made returnable on 09/10/2018. Reply Affidavit to be filed and served three days prior to the said date.”

3. The learned Advocate for the Respondent states that since the year 2013, he is from time to time giving the subject flat on Leave and license to Licensees for different periods. He admits that, he ought to have informed the Court about the same when the Order dated 9th January, 2019 set out in paragraph 1 above was passed.

1 2018 SCC Online Bom. 14018

He admits on instructions that, he has not shared the compensation received by him from the licensees with his wife. In any event, since the learned Advocate for the Respondent states that the present license is coming to an end on 10th December, 2021, and that he will not renew the same in favour of the present licensee and will also not execute a fresh leave and license agreement in favour of any new licensee without seeking prior permission of the Family Court, his statements are accepted.

4. The Family Court shall also decide the issue as to whether the Respondent should share the amount of compensation with his wife since the learned Advocate for the Petitioner submitted that the said flat stands in the joint names of the husband and wife and the wife has also contributed towards the sale consideration of the said flat. The parties shall appear before the Family Court on 18th November, 2021 and after producing a copy of this order before the learned Judge of the Family Court, seek appropriate directions in the matter.

5. The Contempt Petition is accordingly disposed of.

(SURENDRA P. TAVADE, J.)

(S.J.KATHAWALLA, J.)