

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**901 CONT. PETITION NO.763 OF 2022
IN SA/235/2011**

**VIJAY BABURAO MATHPATI
VERSUS
SANJAY BABURAO MATHPATI AND OTHERS**

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Advocate for Petitioner : Mr. P. S. Paranjap
Advocate for Respondent No.1 : Mr. P. V. Balkhande

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**CORAM : SANDIPKUMAR C. MORE, J.
DATED : 05/06/2023.**

P. C. :

1. Heard rival submissions.
2. The learned counsel for the contemnor i.e. present respondent filed certified copy of order passed by learned executing court i.e. Civil Judge (S.D.), Parbhani on 10/05/2023 directing the court officer to execute the order passed by this court in second appeal and also direction for the present contemnor to vacate the rooms as described in the proceeding. Further, the learned counsel for the contemnor also produced on record certified copies of necessary panchanama and possession receipt, which indicate that the present contemnor has given possession of the suit rooms to the present petitioner i.e. the decree holder.
3. Though the fact of getting possession of the suit rooms by the petitioner is not disputed by his learned counsel Mr. Paranjape, but he pointed out that while surrendering the possession of suit rooms, the contemnor by undue force in fact occupied other three rooms of House No. 1133, Ward No.9, Parbhani illegally. However, the learned counsel for the contemnor contended that the

respondent / contemnor is in possession of these three rooms since beginning. Though the learned counsel for the petitioner sought entire vacation of the house wherein the suit rooms are existing, but the decree is only in respect of two rooms of the aforesaid house and for vacation of other three rooms allegedly occupied illegally by the contemnor, a separate remedy is available to the petitioner. The present contempt petition is only in respect of vacating the two suit rooms, which has already been done. For getting possession of other rooms the petitioner is at liberty to avail any remedy as per permissible in law including the proceeding for contempt of the order of the Hon'ble Court dated 21/04/2023. As such, the present petition stands disposed of as complied with.

(SANDIPKUMAR C. MORE, J.)