

Amol

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**ORDINARY ORIGINAL CIVIL JURISDICTION**  
**INTERIM APPLICATION NO. 1661 OF 2022**  
**IN**  
**CONTEMPT PETITION NO. 14 OF 2022**  
**IN**  
**WRIT PETITION NO. 1364 OF 2020**

Ashwin Prabhudas Punjani & Anr ...Applicants  
*In the matter between*  
Ashwin Prabhudas Punjani & Anr ...Petitioners  
*Versus*  
The Chief Officer Mumbai Building Repairs & ...Respondents  
Reconstruction Board & Anr

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**Mr Amrut Joshi, with Yazad Udwadia, Ruchi Gandhi, i/b DM Legal**  
*for the Applicant-Petitioner.*  
**Mr Amit Shastri, AGP, for the Respondent-State.**  
**Mr Karl Tamboly, with Shard W, for Proposed Respondent.**

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**CORAM    G.S. Patel &**  
**Neela Gokhale, JJ.**  
**DATED:    24th February 2023**

**PC:-**

1. The Contempt Petition is entirely misconceived. There was an order dated 30th September 2021 in a Writ Petition filed by the present two Contempt Petitioners. They contended that the

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developer was not paying transit rent. It turns out that the premises in question were the occupancy or tenancy of the 1st Petitioner's deceased mother Kamalaben. The 1st Petitioner claims that his name appears on the Repair Board's records.

2. In paragraph 2 of the 30th September 2021 order, the Division Bench disposed of the Petition by directing the Chief Officer of the Mumbai Building Repairs & Reconstruction Board to decide the Petitioners representation of 3rd January 2020 expeditiously and in any event within eight weeks. The complaint is that the Chief Officer has not decided the eligibility; hence the allegation of contempt.

3. It is correct he has not. That is because he cannot. Kamalaben had, apart from the 1st Petitioner, two daughters. They have opposed the 1st Petitioners claim. They say whether or not his name appears on any record, he is not the one solely entitled to the benefits on redevelopment or during redevelopment. That is clearly not something for the Chief Officer of the Repair Board to decide. If the mother was a tenant, then who is entitled to succeed to the tenancy is a matter of an appropriate proceeding in a Court of competent jurisdiction. If the question is simpliciter of heirship, then that is a matter of succession law. The Petitioner has done nothing in either of those two forums. He complains that neither have his sisters. That may be true, but it is the Petitioner who wants rights decided. If that be so, he must adopt appropriate proceedings. His representation can be decided by the Chief Officer of the Repair Board once the Petitioner is able to show the Chief Officer that he

holds some sort of order in his hands recognising the exclusivity of his rights in regard to his deceased mother's occupancy or tenancy. Otherwise, his demand is simply that the MBBR records serve to pass on tenancy or are sufficient declaration of heirship. That can never be.

4. There is, therefore, no question of any contempt. There is no conduct that is contumacious nor a wilful or deliberate disobedience of orders of this Court. It is the Petitioners who have rendered this situation impossible of resolution. It is unacceptable for them to merely say "decide my representation for eligibility because my name appears on such and such a record." No such application is sustainable.

5. The Contempt Petition is without substance. It is dismissed.

6. The Interim Application does not survive. The Interim Application is disposed of. No costs.

**(Neela Gokhale, J)**

**(G. S. Patel, J)**