

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.110 OF 2024

IN

FIRST APPEAL NO.1117 OF 2018

Sushma A. Gupta & Anr.

: Petitioner/Org. Deft.

Vs.

Mr. Dinesh Parikh & Ors.

: Respondents

Adv. Dr. Dhanalaxmi Iyer a/w C. M. Lokesh i/by C. J. Kambli, for the
Petitioner.

Adv. Rajeev Chavan, Sr. Advocate a/w Mr. Santosh Parad, for the MCGM.

Adv. Mayur Khandeparkar i/by Adv. Bhawajeet Mukherjee a/w Adv. Humera
Syed, for the Respondent Nos.1 to 3.

CORAM : KISHORE C. SANT, J.

RESERVED ON : 8TH FEBRUARY, 2024

PRONOUNCED ON : 16TH FEBRUARY, 2024

PC. :

1. This Contempt Petition is filed praying for initiating an action
against the Respondents for committing contempt of this Court by
disobeying orders dated 22nd March, 2018, 11th October, 2022 and 21st
December, 2022 passed by this Court in First Appeal No.1117 of 2018.

2. The Petitioners in this Contempt Petition are the Appellants in
the First Appeal original defendants in LC Suit No.3067 of 1996.

3. It is a case of the Petitioner that this Court vide order dated
22nd March, 2018 passed in Civil Application No.1323 of 2018 with Civil

Application No.1324 of 2018 in the First Appeal had directed the parties to maintain *status-quo*. The same was continued by order dated 11th November, 2022. Respondent No.3 thereafter filed Interim Application No.30446 of 2022 in the Appeal when for vacating *status-quo* order granting by the Court in First Appeal. The Application was filed for the reasons that the society-present Respondent No.3 wanted to demolish the structure of the building of the society as the structure was in dilapidated condition & was likely to collapse. In view of the order of *status-quo* the society was not in position to carry out demolition and reconstruction of the building. As there is a notional connection between the suit premises and the building of the society it was necessary to demolish the notional connection. This Court therefore by the order dated 21st December, 2022 vacated the *status-quo* only to the extent of demolishing notional connection. In the said order it was observed that, the said order was without prejudice to the rights and contentions of the parties. The operative part except above was maintained.

4. The society i.e. Respondent No.3 to this Petition thereafter razed the construction of notional connection and started construction work. It is the case of the Petitioner that this Act amount to contempt of the order passed by this Court. The Respondents have violated the *status-*

quo order passed by this Court.

5. The learned Advocate vehemently argued that the Respondents are guilty of committing the contempt an action needs to be initiated for committing the contempt. This Court has ample powers under article 215 of the Constitution to take an action.

6. Learned Advocate shree Khandeparkar and senior Advocate shree Rajeev Chavan argued for the parties submit that there is no contempt at all of the order passed by this Court. Only the notional connection was required to be demolished because of the situation of the suit premises and the building of the society. No construction of the building of the society was possible without demolishing the notional structure. The Respondents being law abiding citizens approached this Court and filed an Application seeking vacation of status-quo order. This Court by considering all the material aspects granted permission. This Court specifically vacated status-quo only to the extent of demolishing notional connection. The society has thereafter made construction only as per the order passed by this Court. There is no question of contempt.

7. Mr. Rajeev Chavan, senior counsel also submits that the corporation is not concerned with the alleged act of contempt. Respondent Nos.7, 8 & 9 are unnecessarily joined as respondents in Contempt Petition.

8. This Court has gone through the orders passed by this Court. The first order was passed on 22nd March, 2018 directing the parties to maintain the *status-quo*. The Petitioner has failed to show before the Court as to what was the status as on the date of passing of the order. It appears from the order the Court wanted only the stay implementation of the order passed by the City Civil Court. As there was apprehension of demolition of structure at the hands of the Municipal Corporation. This Court finds that, it was necessary for the Petitioner to specifically demonstrate as to exactly in what manner contempt is committed. The alleged action is taken by the Respondent No.3-Society only after passing of an interim order by this Court dated 21st December, 2022. Further Petitioner had filed both Civil Applications seeking stay of the construction of the building of the society. However no order was passed on that application.

9. This Court finds that no case is made out to initiate action under the Contempt of Courts Act, 1971.

10. Contempt Petition therefore stands dismissed.

(KISHORE C. SANT, J.)