

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.130 OF 2023

Mrs. Kalpana Lalu Gwalani

: Petitioner

Orig. Respondent No.1.

Vs.

Laxmi Narayan & Ors.

: Respondents

Adv. Samiksha Manek i/by M M Legal Associates for the Petitioner.
Adv. Tejas D. Deshmukh a/w Adv. Sulagna S. Mohanty for the Respondent
Nos. 1 & 4.

CORAM : KISHORE C. SANT, J.

DATE : 22nd JANUARY, 2024

PC. :

1. Heard parties for some time.
2. This Contempt Petition is filed alleging that the Respondents/Contemnors have flouted the order dated 5th September, 2005 passed by this Court in First Appeal No.616 of 2007 which reads as below:-

“Stand over to 12th September, 2005. Status quo to continue till then.”

3. It is submission of the Petitioner that this Interim Order is continued from time to time and is in existence till today. Pending the

operation of this order the Respondents has entered into Leave and License Agreement from 2006 for a period of 11 months and it is renewed after every 11 months. The Respondents have thus committed a contempt of the order passed by this Court.

4. Learned Advocate for the Respondents submits that there is no contempt committed as such however he has tendered an apology. He however submits that, this Court while passing the order it does not appear from the order as to in what manner the status quo was to be maintained. This order needs to be interpreted in the context of the prayer Clauses in the Civil Application. In the Civil Application the prayer was only to stay the decree & order passed by the Trial Court allowing the Suit of the present Petitioner. Thus the order for status quo needs to be interpreted as to maintain status of the things as it is. There is no allegation that nature of the things is changed. Merely executing Leave & License Agreement would not amount to contempt of such order. From the order there is nothing to indicate that by passing this order the Court has directed that no third party interest be created or Leave and License Agreement be executed. He thus, submits that there is no contempt of the order as such and prays for dismissal of this Petition.

5. This Court has considered the order passed by this Court

dated 5th September, 2005. The order is only directs to maintain the status quo. From the order it is not seen that the party was restrained from executing any Leave and License Agreement. There is no allegation that the nature of the things is changed. There is also no allegation that the title of the properties is transferred to any third person. Merely entering into an Agreement of Leave and License cannot be said to be a contempt of the order of status quo. It is trite law that in a contempt, the person has deliberately flouted order and that amounts to contempt. Looking to the reply filed by the Respondents, it is seen that still the Respondent has tendered an apology. This Court finds substance in his argument that the order of status quo needs to be considered in view of the prayers made in this Civil Application.

6. After considering the above position no case is made out to continue the proceedings against the Respondents. Contempt Petition is therefore dismissed. No order as to costs.

7. Petition stands disposed of.

(KISHORE C. SANT, J.)