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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 553 OF 2024

Sunita Keshav Shetty

.. Petitioner

Versus

Arun Keshav Shetty

.. Respondent

-
- Mr. Rakesh Singh, Advocate i/by K.R. Tiwari & Co. for Petitioner.
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CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 16, 2024.

P.C.:

1. Heard Mr. Singh, learned Advocate for Petitioner.
2. Perused the impugned order dated 13.01.2022 which is appended at Exhibit "A" to the Contempt Petition. By virtue of the said order, both the parties were directed to maintain *status quo* in respect of the suit properties. Contentious property in question which is the subject matter of the Contempt Petition is a running hotel which is originally nomenclatured as 'Hotel Durga Bhavan'.
3. Petitioner before me is the Plaintiff before the Trial Court. Suit is filed by the Plaintiff – mother seeking partition of the properties against Defendant Nos.1 and 2. Defendant No.1 is her son and Defendant No.2 is her daughter.

4. The averments made in the present Contempt Petition if seen, show that it is the case of Petitioner – mother that in December 2022 despite subsistence of the order dated 13.01.2022, Defendant No.1 – son has created third party rights in the Suit property which is in his possession and control. Suit property as delineated herein above is the premises of ‘Hotel Durga Bhavan’. It is averred by the Plaintiff – Petitioner that Defendant No.1 has entered into a Leave and Licence Agreement with a third party thereby handing over possession of the said ‘Hotel Durga Bhavan’ to the third party. Evidence to that effect is based upon the said hotel now being run in the name of ‘Cafe Ismail’.

5. Some photographs and name board etc. of the said hotel have also been placed on record. I have perused the said photographs which have been taken on a mobile phone camera and enclosed as annexures to the Contempt Petition at Exhibit “B-1” to “B-4”.

6. From the averments made, it is the grievance of the Plaintiff – mother that despite subsistence of the *status quo* order dated 13.01.2022, Defendant No.1 ought not to have breached that order and handed over the said property namely “Hotel Durga Bhavan” to the third party right to run the same as commercial property. According to Petitioner, the said act of Defendant No.1 – son amounts to breach of the *status quo* order.

7. On perusing the averments made in the Contempt Petition and the annexures annexed to the Petition, an arguable case has been made out for issuance of notice.

8. Hence, issue notice to Respondent. Humdast permitted.

9. In addition to Court notice, Petitioner is permitted to serve a copy of the Contempt Petition and this order on the Respondent and inform him about the next date of hearing by any permissible mode of service and file appropriate Affidavit of service with tangible proof thereof on or before the next date.

10. After receiving notice, Respondent is directed to take cognizance of this order and file his Affidavit-in-Reply on or before the next date, if so desired.

11. Respondent is directed to remain present in Court on the next adjourned date either by himself or through Advocate.

12. Stand over to **27th November 2024.**

[MILIND N. JADHAV, J.]

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