

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 652 OF 2024

Mahesh Ramashray Mishra

...Petitioner

*Versus*

Kohinoor Infra Development & Ors

...Respondents

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Mr Joel D'Souza, with Arun G., i/b Zakir Kadar Basha, for the Petitioner.

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SHEPHALI  
SANJAY  
MORMARE

CORAM:

ARIF S. DOCTOR, J

DATED:

9th December 2024

Digitally signed by  
SHEPHALI SANJAY  
MORMARE  
Date: 2024.12.10  
09:21:13 +0530

PC:-

1. This Petition is for contempt. The Learned Counsel appearing on behalf of the Petitioner places reliance upon an Affidavit of Service to show service upon the Respondents. A perusal of the same shows that the Respondents though served are not present today. The Learned Counsel appearing on behalf of the Petitioner then invites my attention to the Order dated 27th February 2024 passed in Arbitration Petition No. 80 of 2021 and points out that by and under the said Order records the Respondents undertaking to do the following.

*“(b) Without going into the correctness of allegations in order to resolve the dispute amicably, The Respondent undertakes to carry out all repairs, pointed out by the*

*Petitioner in Exhibit F of the Petition within a period of four weeks from the date of Order.*

*(c) The Respondent hereby undertakes to clear property tax arrears payable in respect of suit flat till 31/12/2020. The Respondents shall clear those arrears within period of four weeks from today and shall supply the copy of receipt to the Petitioner."*

2. It is his submission that the Respondents have however, failed and neglected to comply with the said undertakings given to this Court. It is his submission that the Respondents have failed and neglected to comply with the objection under the said Agreement and it is thus the present Petition has been filed.

3. He then invited my attention to an email dated 4th April 2024 by which the Petitioner's erstwhile Advocates have pointed out to the Respondents' Advocate, the Respondents failure to comply. A perusal of the record shows that the Respondents have through Advocate on 5th April 2024, responded to the said email. It is, however, the submission of the Learned Counsel appearing on behalf of the Petitioner that today the obligations of the Respondents continue to be observing a breach.

4. Having due regard to the submissions made as also to the fact that despite notice none has appeared on behalf of the Respondents, issue notice to the Respondents returnable on 27th January 2025.

5. It is made clear that this notice is not a notice on contempt but a notice to appear before the Court. If on the next date, none appears on

behalf of the Respondents, yhe Court shall proceed to take up the Contempt Petition for hearing.

(ARIF S. DOCTOR, J)