

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CONTEMPT PETITION NO. 14 OF 2024**

Michelle Lucette Curzai Dsa & Ors.

.. Petitioners

Versus

Christopher Joseph Curzai & Ors.

.. Respondents

Adv. S. L. Shah i/b. Shah Legal for the Petitioners.

Dr. Abhinav Chandrachud a/w Rahul Dangle, Hardik Desai for the Respondent Nos. 1 to 3.

Adv. Darryl Pereira a/w Beverly Fernandes for Respondent No.4.

Michelle Lecette Curzai Dsa, Petitioner is present.

Christopher Joseph Curzai, Respondent No.1. is present.

CORAM: B. P. COLABAWALLA &

SOMASEKHAR SUNDARESAN, JJ.

DATE: DECEMBER 18, 2024

P. C.

1. The above Contempt Petition is filed seeking to hold Respondent Nos. 1 to 3 guilty of contempt of the order dated 27th October 2023 passed by the Division Bench of this Court in Appeal (L) No. 29860 of 2023.

2. According to the Petitioners, the Division Bench permitted the Petitioner No.1 herein to have access to the entire suit property, and in contrast, she is restricted to only one room. She is not in a position to either cook any food or even wash her clothes, is the case of the Petitioners.

3. We have heard Mr. Shah, the learned Counsel appearing for the Petitioners, Dr. Chandrachud, the learned Counsel appearing for Respondent Nos. 1 to 3, and Mr. Pereira, the learned Counsel appearing for Respondent No.4 (the mother). We have also perused in detail the order passed on 27th October 2023. In paragraph 5 of the said order, the Court recorded the statement of the counsel appearing on behalf of Respondent Nos. 1 to 3 that without prejudice to their rights and contentions in the Interim Application pending before the learned Single Judge, Respondent Nos. 1 to 3 would permit Petitioner No.1 immediate access to one room on the first floor which was used by her before her marriage, and permit her to reside/occupy the same. The mother also joined in such statement. A further submission was made that Petitioner No.1 must not create any acrimony or behave in a manner which is not conducive to harmonious co-existence. It was further submitted by Respondent Nos. 1 to 3 that Petitioner No.1 be permitted access to only one room situated on the first floor, and no other common areas of the suit

property, so as to avoid any unpleasant situation being created. On the basis of this statement, the Division Bench disposed of the above Appeal. The relevant portion of the order dated 27th October 2023 reads thus:

“6. After hearing counsel at some length we must note that this is yet another unfortunate instance of disputes amongst close family members (sisters on the one hand and brothers on the other). What appears clear to us is that an aged mother is caught in the cross fire between sparring siblings. While the present appeal can be disposed off on the basis of the statement made by learned counsel for the Respondents the same would not address the one aspect which to our mind also requires to be immediately addressed i.e. the welfare and well-being of Respondent No.4 the 93 year old mother. Hence we propose to address that aspect also while disposing of the Appeal, which we do in the following terms:-

(i) Statement of learned counsel appearing on behalf of Respondent Nos. 1 to 3 and learned counsel for Respondent No.4 that they shall permit immediate unhindered and unfettered access to Appellant No.1 to the one room occupied by her on the first floor of the suit property until the hearing and final disposal of the Interim Application is accepted as an undertaking given to the Court.

(ii) That all the parties i.e. the Appellants, particularly Appellant No.1 on the one hand and Respondent Nos. 1 to 3 on the other hand shall at all time ensure that they shall co-exist in a harmonious manner and without any acrimony, pursuant to the access granted to the suit property as per this order.”

4. It is relying upon what is stated in paragraph 6(ii), that the learned Advocate appearing for the Petitioners submits that Petitioner No.1 has been

granted access to the entire suit property. We, unfortunately, are unable to agree with this submission. When one reads the order of the Division Bench, it has to be read as a whole. One cannot pick out one sentence in the order and contend that access has been granted to Petitioner No.1 to the entire suit property. When one looks at paragraph 6(i), it is clear that Petitioner No.1 has been granted unhindered and unfettered access to one room occupied by her on the first floor of the suit property until the final hearing and disposal of the Interim Application pending before the learned Single Judge. When one reads the order of the Division Bench as a whole, we are unable to persuade ourselves to hold that access to the entire suit property is granted to Petitioner No.1. In fact, as per the statement made by Respondent Nos. 1 to 3, and on the basis of which the above Appeal was disposed of, access was granted to Petitioner No.1 only to one room in the suit property. The statement of Respondent Nos.1 to 3 categorically asserts that access to no other common areas of the suit property would be allowed to the 1st Petitioner in order to avoid any unpleasant situation being created. Once this is the case, we do not think that this is a fit case where the Court ought to entertain the Contempt Petition. We do not find that there is any wilful disobedience of the order dated 27th October 2023. The Contempt Petition is accordingly dismissed. However, there shall be no order as to costs.

5. This order will be digitally signed by the Private Secretary/
Personal Assistant of this Court. All concerned will act on production by fax
or email of a digitally signed copy of this order.

[SOMASEKHAR SUNDARESAN, J.]

[B. P. COLABAWALLA, J.]