

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**REVIEW PETITION NO.40 OF 2025
IN
WRIT PETITION NO.4519 OF 2021**

VAIBHAV
RAMESH
JADHAV
Digitally signed by
VAIBHAV RAMESH
JADHAV
Date: 2025.03.05
18:37:59 +0530

Devendra Shashikant Tandel & Anr.	... Petitioners
V/s.	
Swati Shashikant Tandel & Ors.	... Respondents

Mr. Viraj Kandpile for the petitioners.

Mr. Kaustubh Thipsay with Aishwarya Shinde for respondent Nos.1 and 3.

Mr. Gajanan Surve, Master (Adm.) office of the Court Receiver is present.

CORAM : AMIT BORKAR, J.

DATED : MARCH 5, 2025

P.C.:

1. Having heard the learned counsel for the review petitioners and upon meticulous perusal of the record, it transpires that the judgment sought to be reviewed is premised upon the undisputed non-compliance of an undertaking given by the petitioners before this Constitutional Court. It is a well-recognized principle in the administration of justice, repeatedly affirmed by superior courts, that a person who has willfully defied or breached a solemn undertaking given to the court stands on precarious footing when seeking any discretionary relief. The concept that such a

contemnor may be declined an audience unless and until the contempt is purged or the order is complied with finds consistent enunciation in various precedents, notably in the legal exposition rendered by Lord Denning in *Hadkinson v. Hadkinson* [1952] 2 All ER 567, wherein it has been observed:

“The court would only refuse to hear a party to a cause when the contempt impeded the course of justice by making it more difficult for the court to ascertain the truth or to enforce its orders and there was no other effective means of securing his compliance. The court might then in its discretion refuse to hear him until the impediment was removed or good reason was shown why it should not be removed.”

2. In keeping with this ratio decidendi, the courts have frequently emphasized that a litigant cannot be permitted to flout or disregard judicial orders with impunity and then invoke the court’s indulgence without having first demonstrated bona fide compliance. The foundational principle underlying such refusal to hear a contemnor is that no court shall allow its process to be trifled with, lest it undermine the rule of law and the sanctity of the judicial process.

3. Subsequent developments in jurisprudence have cemented the position that a litigant in willful disobedience of a judicial mandate is not entitled to be heard on the merits of his or her application unless there is first a genuine and adequate effort to comply with the subsisting order. Several courts, while elaborating

upon the equitable doctrine of “clean hands,” have consistently held that where a party remains in deliberate violation of an undertaking, it cannot be accorded the privilege of being heard. This principle, often reflected in contempt proceedings, serves to uphold the dignity of the court and ensures that judicial orders command the necessary respect. It follows that the alleged contemnor must demonstrate either compliance or a compelling explanation before the court’s discretionary jurisdiction is invoked in his favor.

4. Despite the clear enunciation of this legal position, this Court, in the interest of justice and so as not to deny the petitioners an opportunity to explain their position, proceeded to hear learned counsel for the petitioners. In the course of his submissions, the learned counsel unequivocally averred that possession of Room No. 6 had already been surrendered to the respondents in purported compliance of the prior order of this Court. To verify the veracity of this assertion, the Court undertook a careful examination of the relevant materials on record. However, the examination did not reveal any documentary evidence or credible proof substantiating the delivery of possession to the respondents. Such an absence of corroborative documents casts serious doubt on the petitioners’ claim of compliance and suggests a lack of candor in approaching this Court.

5. Recognizing the fragility of his initial stance, learned counsel for the petitioners then altered his submission and stated that the petitioners “are ready and willing” to deliver possession of Room No. 6, implying that the respondents themselves had not facilitated

the transfer of possession. This volte-face, in conjunction with the earlier categorical statement that possession had already been handed over, exposes a grave inconsistency in the petitioners' account. Such conduct, in the face of contradictory statements and non-production of any supporting document, amounts to a clear demonstration of the petitioners' lack of bona fides. A party that disregards the solemnity of its own undertaking and then attempts to retroactively cure its non-compliance—only after being confronted with the absence of proof—cannot justifiably claim any equitable or discretionary relief. Consequently, the petitioners are disqualified from seeking the review of this Court's order inasmuch as their recalcitrant behavior subverts the very authority of the Court.

6. For the foregoing reasons, the review petition, being devoid of merit, is hereby dismissed. No order as to costs.

7. Pending interlocutory application(s), if any, stand disposed of.

(AMIT BORKAR, J.)