

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CONTEMPT PETITION NO. 11 OF 2024
IN
NOTICE OF MOTION NO. 1548 OF 2018
IN
COMMERCIAL SUTT NO. 899 OF 2018

Ashok Kumar Damani

...Petitioner

In the matter between

Ashok Kumar Damani

...Petitioner

Vs.

Yashashree Construction Co. & Ors.

...Respondents

WITH
NOTICE OF MOTION NO. 1548 OF 2018
WITH
INTERIM APPLICATION (L) NO. 26104 OF 2022

Mr. Rubin Vakil a/w Heena T. and Isha Thakur i/by Vimadalal & Co. for the
Petitioner.

CORAM : ARIF S. DOCTOR, J.

DATE : 3RD MARCH, 2025

P.C.:-

1. The present Contempt Petition alleges contempt of orders of this
Court dated 6th August, 2018 read with 27th August, 2018 read with 12th

September, 2018 read with 28th September, 2018 read with 12th October, 2018 passed by this Court in Notice of Motion No.1548 of 2018 in Commercial Suit No.899 of 2018.

2. Heard Mr. Vakil, Learned Counsel for the Petitioner, who has invited my attention to the order dated 6th August, 2018 and pointed out that by the said order, Respondent No.4 (the Developer) enjoined from creating any further third party rights in respect of the premises in the said project. Learned Counsel points out that the other orders referred to above continued this interim order, which he submits subsists till date. Learned Counsel points out the fact that the interim order subsists till date is borne out from an application filed by Respondent No.4 which is Interim Application (L) No.26104 of 2022, by which Respondent No.4 (the Developer) has specifically sought that this Court set aside the ad interim order dated 11th April, 2018 and 6th August, 2018.

3. Mr. Vakil then, in support of his contention that Respondent No.4 (the Developer) has acted in willful breach and disobedience of the order dated 6th August, 2018, invited my attention to a tabular charge annexed at Exhibit J to the Petition which sets out the various instances of sale of units in the said project, all of which have been registered after the order dated 6th August, 2018 has been passed. He further points out that despite the fact that this Court had by an order dated 9th October, 2024 granted Respondent No.4 (the Developer) time to file an Affidavit-in-Reply on or before 16th October, 2024, none has been filed.

It is thus he submits that today there is no denial of the averments set out in the Petition and the fact that breach of the order dated 6th August, 2018 has been committed by Respondent No.4 (the Developer).

4. In view of the above and given the fact that the averments in the Petition as on today are uncontroverted as also I am *prima facie* satisfied that there appears to be breach on the part of Respondent No.4 (the Developer) of the orders passed by this Court, issue show cause notice to Respondent Nos.4 and 6 to 8 as per Rules to Regulate Proceedings for Contempt under Article 215 of the Constitution of India and The Contempt of Courts Act, 1971 as to why action should not be taken against them returnable on 24th March, 2025.

5. Needless to state that this Court having issued show cause notice in the Contempt Petition, Respondent Nos.6 to 8 would have to be present on the next date as also every subsequent date on which the Contempt Petition is listed.

(ARIF S. DOCTOR, J.)