

LAXMI
SUBHASH
SONTAKKE

Digitally signed by
LAXMI SUBHASH
SONTAKKE
Date: 2025.06.26
15:51:14 +0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO. 2553 OF 2025
IN
COMMERCIAL EXECUTION APPLICATION (L) NO. 7058 OF 2024

M. L. Developers

...Applicant/Org. Claimant

V/s.

Shashank Bupatrai Kapadia

...Respondent

Mr. Vivek Kantawala a/w Manav Kantawala i/b Vivek M. Sharma,
Advocate for the Applicant/Org. Claimant.
Adv. M. Thakkar i/b. Raval Shah & Co., Advocate for the Respondent.

CORAM : ABHAY AHUJA, J.
DATE : JUNE 23, 2025

P.C. :

1. Pursuant to order dated 11th November 2024, when the matter is called out today, Mr. Thakkar, learned Counsel appears for the Respondent/Judgment Debtor and submits that some time be granted as the Judgment debtor is unwell.

2. Mr. Kantawala, learned Counsel appearing for the Applicant/Judgment Creditor submits that the Judgment Debtor is firstly in breach of the order dated 11th November 2024 and the

undertaking given on the said date to remain present in this Court on each and every date when the matter is listed. Secondly, Mr. Kantawala submits that the undertaking not to deal with or dispose of assets is also being breached, as after filing of the undertaking, the Respondent and his brother have gone ahead and filed a suit with respect to their properties claiming partition. Mr. Kantawala submits that the same is only to defeat the fruits of the Applicant's decree. Mr. Kantawala submits that a disclosure affidavit has been filed by the Respondent, however, the same is completely inadequate and also indicative of breach of the undertaking.

3. This Court does not appreciate the conduct of the Respondent for whatever reason for not remaining present in Court. Proper course is, if the Respondent is not well, he has to make an application in advance seeking exemption from remaining present in Court and that has not been done. The Respondent is clearly in breach of the undertaking having exposed himself to action in contempt.

4. Let a detailed affidavit along with supporting medical reports be filed in this Court clearly explaining as to how and why the Respondent has been unable to remain present in Court today.

5. Let the said affidavit on behalf of the Respondent be filed within a period of one week with a copy to the other side.
6. Let the Respondent positively remain present in Court on the next date, failing which, this Court will be left with no option but to secure his presence through the State Machinery, in addition to issuance of notice under the Contempt of Court's Act, 1971 for aggravated contempt.
7. Also let an Affidavit, in response to the disclosure Affidavit be filed by the next date with a copy to the other side.
8. List on **28th July 2025**.

(ABHAY AHUJA, J.)