

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

CONTEMPT PETITION NO. 16 OF 2025

IN

NOTICE OF MOTION NO. 1064 OF 2017

IN

SUITS NO. 354 OF 2017

Shri Kedarnath Co-op. Housing Society Ltd.

...Petitioner/Plaintiff

Versus

R. K. Builders & Ors.

..Defendants

WITH

INTERIM APPLICATION (L) NO.10809 OF 2025

WITH

NOTICE OF MOTION NO.1064 OF 2017

Mr. Aadil Parsurampuria i/b M/s. Legal Vision, for the Petitioner/Plaintiff.

Mr. Sahil Saiyed for Defendant Nos.1(a) to 1(d).

Mr. Sunil Khandagale i/b Ms. Komal Punjabi, for Defendant Nos.5 to 8-BMC.

CORAM : ARIF S. DOCTOR, J.

DATE : 19th NOVEMBER 2025

P.C.

1. The present Contempt Petition alleges contempt by Defendant Nos.1(a) to 1(d) (who are the legal heirs of the Erstwhile Developer) of two orders of this Court the first is an order dated 13th July 2017 and the second is an order dated 29th March 2019.

2. Essentially, the contempt alleged by the Petitioner can be another three broad points: first, that the Developer had restricted the Petitioner's access to the R.G. area; second, that the stormwater drains forming part of the layout were not

allowed to be maintained by the Petitioner's society; and third, that the area for recreation ground was not permitted to be used for parking vehicles in the manner contemplated in the order dated 29th March 2020. There has been a fair history of litigation enacted between the Petitioner and the Defendants Developer.

3. Learned counsel appearing on behalf of the Defendants Developer, while denying any contempt on the part of the Defendants, has today submitted a statement on behalf of Defendant Nos.1(a) to 1(d), on the basis of which the Contempt Petition can be disposed of. He further informed the Court that, though this statement has been signed by him as Advocate on instructions of the Defendants. The Defendants shall furnish an undertaking in terms of the said statement to this Court within a period of one week from today.

4. Thus, having perused the statement tendered today on behalf of Defendant Nos. 1(a) to 1(d), which reads thus:

**"STATEMENT ON BEHALF OF DEFENDANT NO. 1A TO 1D TO
DISPOSE OFF CONTEMPT PETITION**

1. *In terms of the Clause 9 x of the Order dated 13th July, 2017 the Plaintiff No. 1 to 4 societies and/or its members shall be entitled to use the R.G. area at the said property as permitted by this Hon'ble Court subject to a) the Plaintiffs not erecting or causing to be erected any structure temporary or permanent of any nature over the Recreation Ground (R.G.) area as opened up in terms of Order dated 13th July, 2017, b) always keeping it open to sky and c) using it only as an R.G. area and not commercially exploiting the same in any manner.*

2. *The Defendant No. 1a to 1d shall not cause or permit any hindrance or obstruction in the aforesaid use of the R.G. area by the members of the Plaintiff societies as aforesaid.*
3. *The Defendant No. 1a to 1d shall keep the R.G. area clean, periodically trim the grass/vegetation that may grow therein and repair/maintain the storm water drains as and when informed of breakage by the Plaintiffs. The Defendant No. 1a to 1d shall seek support and cooperation from Plaintiffs to keep the RG area clean, in good condition and free from garbage and damage at all times.*
4. *The Defendant No. 1a to 1d shall permit the members of the Plaintiff No. 1 to 4 to park 9 cars in the R.G. area utilizing the currently open and accessible entrance gate as reflected in the sanctioned plans in terms of the undertaking given by the Plaintiffs as recorded in paragraph 4 of the Order dated 29th March 2019. This permission is granted subject to the cars being removed within 24 hours of permission being granted by the municipal authorities to the Defendant No. 1a to 1d to construct proposed building no. 4 at the said property.*
5. *The aforesaid shall also be subject to the Plaintiffs within 1 week from today sharing with the Defendant No. 1a to 1d the names of members and specific registration numbers of the 9 cars to be parked in the R.G. area which shall also be affixed with a distinct sticker by the Plaintiffs for identification purposes. In the event that the Plaintiff in future desire to change the name of the members or details of cars to be parked in the R.G area as aforesaid it shall do so by informing the Defendant NO. 1a to 1d in writing atleast 48 hours in advance, provide fresh stickers for the same and in no circumstances permit outsider vehicles to be parked in the R.G. area. . It is clarified that the present arrangement shall be purely interim and without prejudice to all rights and contentions of the parties on merits, which are kept open. The parties shall not claim equities on the basis hereof and no right, title, interest, license of any nature*

whatsoever in the suit property is created in favor of any party by virtue of the statements made herein or order passed hereon.

7. In light of the aforesaid the allegations of contempt of court as contained in the present petition against the Defendant No. 1a to 1d stand withdrawn and the Petition may be disposed off in terms hereof."

5. Nothing further survives in this Contempt Petition.

6. The Defendant Nos.1(a) to 1(d) shall, however, furnish a written undertaking setting out what has been stated in the said statement to this Court within a period of one week from today.

7. It is made clear that the order dated 29th March 2019 does not prescribe the number of cars that can be parked in the R.G. area. Therefore, there is no question of the Defendants now put in any fetter or limit upon the same and the undertaking shall therefore not contain any specific number of cars.

8. The Contempt Petition is disposed of.

9. Stand over to **1st December 2025** for compliance.

[ARIF S. DOCTOR, J.]