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Date: 2025.12.11 11:35:33 +0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
CONTEMPT PETITION NO.62 OF 2025

Subhash Nagar Srushti Co-Operative .. Petitioner
Housing Society Limited

Versus

Gadkari Builders and Associates & .. Respondents
Ors.

...

Mr.Shailesh Shah, Senior Counsel with Mr.Dibyajeet Banerjee,
Mr.Anuj Athalye and Mr.Rohan Gupta i/b Legasis Partners for
the Petitioner.

Mr.Manoj Harit i/b Manoj Harit & Co. for the Respondents.

CORAM: BHARATI DANGRE, J.

DATE : 4th DECEMBER, 2025

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P.C:-

1. In the Contempt Petition filed by the Co-operative Housing Society, it is alleged that there is no compliance of the order dated 09/04/2025, which was based on Consent Terms being drawn up between the parties.

The learned senior counsel Mr.Shah, in particular, has invited my attention to the order dated 16/10/2025, passed in the Contempt Petition and he would submit that even there is no compliance of the directions in the said order, which in fact has aggravated the contempt.

2. Learned counsel Mr.Harit representing the Respondents, has pleaded that, it is true that an undertaking was given that an application for Occupation Certificate shall be made on or before 15th October, 2025, but this date is required to be pushed a little ahead, since compliances like NOC from Fire Department and from the Corporation could not be procured and, therefore, he make a statement that the application for Occupation Certificate shall be made on or before 31st December, 2025 in any contingency.

Similarly, he has also expressed difficulty in not making the payment of 50% of the arrears, as directed by this Court and which was due and payable by 31st October, 2025.

3. Mr.Harit, representing the Developer, however, submit that in the wake of the financial constraints faced, the other compliances shall be ensured before an application for Occupation Certificate is preferred. For this reason itself, he admits that the rent for the month of October and November is also not disbursed in favour of the eleven members.

4. Taking note of the non compliances of the stipulations in the Consent terms, which were accepted by this Court on 09/04/2025, as well as non-compliance of the order dated 16/10/2025, I must *prima facie* note that there is a disobedience of the orders and undertakings furnished to the Court, but the only question is, whether the disobedience is willful and deliberate.

The pleaded defence of the Developer is, the financial difficulty, but a specific statement comes from Mr.Harit, on

instructions, that 50% of the arrears towards rent as well as the rent due for October, November and December shall be cleared on or before 31st January, 2026. He also makes a categorical statement that every attempt shall be made to procure an Occupation Certificate by the end of January 2026 and once the Occupation Certificate is obtained, thereafter within the stipulated timelines other obligations cast on the Developer under the Consent Terms dated 09/04/2025, shall also ensure compliance.

However, since it is already noted that there is disobedience of the order and the undertaking given to the Court, the Developer is directed to disburse the sum of Rs.Two Lakhs in favour of each individual member on or before 31st December, 2025 and this amount be covered, either under the head, 'arrears of the previous rent' or 'rent due and payable' shall be computed at the end of January, 2026, when as per the commitment, 50% of the arrears, as directed by this Court on 16/10/2025 shall be cleared.

5. The learned senior counsel Mr.Shah, though raises an objection to this arrangement, in my view, this is the only way forward, even for the Society and its members and I deem it appropriate to direct listing of the Contempt Petition on **5th February, 2026** for furnishing compliance.

It is made clear that if the compliance affidavit is not filed, let Respondent Nos.2 and 3, partners of Respondent No.1 remain present before this Court on **5th February, 2026 at 11.00 a.m.**

(BHARATI DANGRE, J.)