



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Contempt Petition No.187 of 2024

Sudam Narayanrao Ningurkar

vs.

Shyam Narayanrao Ningurkar and others

*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

Court's or Judge's Orders

Mr. H.R. Gadhia, Advocate for the Petitioner.

Mr. Tejas Deshpande, Advocate for Respondent Nos.1 to 4.

CORAM : **ANIL L. PANSARE, J.**

DATE : **2nd MAY, 2025.**

01. On 3rd April, 2025, the following order was passed:

"Heard for some time.

2. *Petitioner has alleged that in breach of order passed by this Court permitting the respondent to renovate the suit property at Sr.No."D" of the plaint, the respondents have commenced construction of the plot at Sr. No. "E". Such an act, according to the petitioner, is willful disobedience of order dated 19.06.2024 passed by this Court.*

3. *The petitioner, in support, has placed on record photographs of construction.*

4. *In reply, the respondents have come up with a case that there is a serious dispute as to whether construction is on plot at Sr. No. "D" or Sr. No. "E" and further that the proceeding under Order XXXIX Rule 2A of the Civil Procedure Code, 1908, have been filed by petitioner before the Trial Court and, therefore, it will be appropriate to permit the Trial Court to ascertain whether the construction is on plot Sr. No. "D" or "E" and until then the issue of contempt will not arise.*

5. *Thus, what is disputed by the respondents, is that*

construction as alleged by the petitioner is not made on plot at Sr. No. "E" but is made on plot at Sr. No. "D". The nature of construction is, however, not disputed. The photographs of construction filed by the petitioner, contains plinth, beams and columns, which cannot be said to be a work of renovation. Thus, whether the construction is on plot at Sr. No. "D" or "E" would be insignificant inasmuch as this Court, vide order dated 19.06.2024, while disposing of the petition, permitted the respondents to renovate (and not carry out fresh construction) the structure existing on plot at Sr.No."D" of the plaint. It appears that the respondents have, instead of renovating the property, commenced fresh construction.

6. *Considering the above status, it appears that the respondents have willfully disobeyed the order. Therefore, the respondents shall remain personally present before the Court on the next date.*

7. *Stand over to 30.04.2025"*

02. Learned Counsel for the respondents has invited my attention to a judgment passed by the Gujarat High Court in the case of **Maganlal Shivilal vs. Memon Daudbhai Mithabhai – 1968 0 Supreme(Guj) 336** to argue that the word 'renovation' has been not defined under the Code of Civil Procedure (C.P.C.) saying that renovation as defined in Websters Dictionary would include making new or like new to clean up replace worn and broken parts in repair etc.; to restore to good condition. The Division Bench has referred to the dictionary meaning in other dictionaries and ultimately held that the term 'renovation' is not restricted to repairs only, but includes demolition of a building and construction of another building on the same site.

03. Thus, one thing is obvious that when the work of renovation is to be carried out, there has to be some work in existence. In the present case, the photographs depicts a picture where part of work is being taken up afresh in the sense, there is nothing to show that there existed some structure, which has been demolished.

04. The respondents are thus trying to take advantage of the definition of 'renovation' and under the garb of renovation intend to carryout fresh construction.

05. The learned Counsel for the respondents submits that the petitioner has filed proceedings under Order XXXIX Rule 2A of the Code, that too, before filing instant petition with same allegation as are levelled in the present petition.

06. That being so, the purpose of filing petition will be served, if the respondents are directed to not take up any construction whether renovation or fresh at the suit site till the application under Order XXXIX Rule 2A of the Code filed before the trial Court is decided. Further construction thereafter at suit site shall be permitted subject to prior approval by the trial Court.

07. The petition is disposed of in the aforesaid terms. No costs.

(Anil L. Pansare, J.)

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