

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO. 155 OF 2026
IN
FAMILY COURT APPEAL NO. 107 OF 2006

Swati Yatin Savla

.. Petitioner

Versus

The Municipal Commissioner and ors. .. Respondents

...

Mr. Manoj Agiwal for the petitioner. for the petitioner.

Mr.Santosh Mali with Mr.D.R. Kawale for respondent nos.1, 2 and 3 BMC.

Ms.Hetal Bhagwani for respondent no.4.

CORAM : BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ
DATED :13th MARCH, 2026

ORAL JUDGMENT:- (Per Bharati Dangre, J)

1 The present Contempt Petition is filed by the widow of Yatin Savla and the respondents to the Contempt Petition are the officials of the Municipal Commissioner as well as one private respondent Hemali Kulinkant Kenia.

2 The claim of the petitioner in the present proceedings is that she is the widow of Yatin Harakchand Savla, who demised on 10/11/2025 and it is she who had instituted proceedings before this Court in form of Family Court Appeals, calling in question the common judgment and decree passed by

the Family Court at Bandra, Mumbai, where the decree of divorce was granted on the ground of judicial separation, though the ground of cruelty was not strictly established.

It is the specific contention raised in the Petition that the impugned decree of judicial separation was quashed and set aside, with a specific declaration that the husband was not entitled for a decree of divorce and Petition No. A-1088/1996 filed by him was dismissed.

The husband raised a challenge to the said decision before the Apex Court, and on 4/9/2015, the Special Leave Petition came to be dismissed.

3 On behalf of the petitioner, the learned counsel Mr. Agiwal would submit that the declaration by this Court which was upheld by the dismissal of Special Leave Petition filed by the husband, operates *in rem* and therefore, the incorporation of the name of respondent no.4, in the death certificate issued by the Department of Public Health of the Municipal Corporation of Greater Mumbai, referring to her as the wife of Yatin Harakchand Savla, is in the teeth of the orders passed by this Court and the officials of the Municipal Corporation are liable for action under the Contempt of Courts Act, 1971.

Our attention is invited to the representation made to the Health Department, with a request to clear the discrepancy, by stating that the name of the wife of the deceased is wrongly recorded, as widow of deceased Mr.Yatin Savla is Mrs.Swati Yatin Savla and not Hemali. Despite

repeated requests being made, there is no rectification, is the grievance.

It is a different matter as to what course of action the petitioner shall choose to get a rectification in the death certificate but in the present proceedings, we are only concerned with the initiation of action under the Contempt of Courts Act, 1971 against the respondents, three of whom are office bearers of the MCGM.

4 From a reading of the order passed by this Court in October 2013, which has been upheld by the Apex Court, whereby the decree of divorce based on judicial separation was set aside, with a specific declaration that the husband is not entitled for a decree of divorce, we must observe that through the declaration about the subsisting marriage between the present petitioner and late Mr.Yatin Savla, amounts to a declaration as to the continuance of the marriage, since the decree of divorce was refused to him.

When it comes to deriving the benefits accrued to her, as his widow, she can press into service her rights and claim the benefits by staking a claim as his widow.

However, if the death certificate has mentioned the name of respondent no.4 as his wife, definitely, the respondents cannot be held guilty for the action of contempt as under the Contempt of Court Act, as for initiating such an action, two elements are necessary; the first being there is an order passed by the Court which results into a breach or disobedience and

second, such disobedience must be wilful and intentional.

We do not find either of the ingredients being made out, as the relationship between the petitioner and late Yatin Savla, was governed by the order passed by the Family Court and the subsequent order passed by the High Court, but there is no specific direction or rather there was no cause for issuing a specific direction or a declaration that she continue to be his wife, though by implied reference, if the marriage between them was not dissolved, she continued to remain his wife, but in absence of any disobedience of a specific direction or order issued by this Court, proceedings under Contempt of Courts Act, are not maintainable.

Apart from this, we do not find that the officials have deliberately flouted the order or declaration, as there was no specific direction declaring the relationship.

5 In any case, we find that upon taking note of the error committed while issuing the death certificate, the petitioner had approached the Health Department of Municipal Corporation, and even filed an online complaint for rectification of the mistake, but to be informed that she should knock the doors of a Civil Court, which approach we find to be completely arbitrary. There is no dispute as regards the status of the petitioner as the wife of Yatin Savla, though they were estranged for considerable time and it is also possible as we could gather from the arguments submitted on behalf of respondent no.4, that she was residing with Yatin Savla for a

considerable length of time, and even during his last moments, but during the subsistence of the first marriage and the petitioner being alive, she cannot claim the status of a wife or even widow. We, therefore, direct the Corporation to take into consideration, as it is always within the powers of the Municipal Corporation to rectify its record. We expect such rectification to be done as expeditiously as possible, and for this purpose, it can call for presence of the petitioner as well as respondent no.4.

With the above observations, no case is made out under Contempt of Courts Act, 1971, the Contempt Petition is dismissed.

(MANJUSHA DESHPANDE, J)

(BHARATI DANGRE, J.)