

MHRG070006142010



Received on : 08/07/2010  
Registered on : 08/07/2010  
Decided on : 13/03/2026  
Duration : Y M D  
15 08 05

**IN THE COURT OF CIVIL JUDGE JUNIOR DIVISION,**  
**KARJAT**  
**TAL. KARJAT, DISTRICT : RAIGAD**  
**( Presided over by Smt. A.S.Wadkar )**

**CIVIL MISC. APPLICATION NO. 21 OF 2010**  
**Exh.89/B**

**1. Shri. Ram Dehu Sonavale (deceased)**

**1.1) Shri. Sanjay Ramchandra Sonavale**

Age: 49, Occupation : Agriculture,  
Address : Dhakade Vengav, Post. Mothe Vengav,  
Tal. Karjat, Dist. Raigad

**1.2) Smt. Vimal Sham Mhatre**

Age: 47, Occupation : Housewife,  
Address : Room No.2, A wing, Raghav Apartment,  
Manjarli Gav, Badalapur (West),  
Tal. Amarnath, Dist.-Thane

**1.3) Shri. Sudam Ramchandra Sonavale**

Age: 45, Occupation : Agriculture,

**1.4) Shri. Balu Ramchandra Sonavale**

Age: 40, Occupation : Agriculture,

**1.5) Bharati Ramchandra Sonavale**

Age: 37, Occupation : Housewife,  
Applicant No. 1.3 to 1.5 R/o at. Dhakade Vengav, Post.  
Mothe Vengav,  
Tal. Karjat, Dist. Raigad

**1.6) Smt. Rohini Rajendra Karnika**

Age: 37, Occupation : Housewife,  
Address: 19, Blue Vill Apartment, Pokharkar Nagar,  
Manjarli Gav, Badalapur (West),  
Tal. Amarnath, Dist.-Thane

**1.7) Smt. Sangita Sachin Shelar**

Age: 33, Occupation : Housewife,  
Address: 203, A wing, 2<sup>nd</sup> floor,  
Archidtrees, Dipali Park, Manjarli Gav,  
Badalapur (West),  
Tal. Amarnath, Dist.-Thane

**1.8) Shri. Suhas Ramchandra Sonavale**

Age: 30, Occupation : Agriculture,

**1.9) Shri. Santosh Ramchandra Sonavale**

Age: 28, Occupation : Agriculture,

applicant No.1.8 to 1.9 R/o at Dhakade Vengav,  
Post. Mothe Vengav,Tal. Karjat, Dist. Raigad

**2) Shri. Gajanan Dhaku Sonavale**

Age :42, Occupation : Agriculture & Contractor

**3) Shri. Sakharam Dhaku Sonavale**

Age :40, Occupation : Agriculture & Contractor

**4) Shri. Sandip Dhaku Sonavale**

Age :30, Occupation : Agriculture & Job

**5) Vimal Dhaku Sonavale**

Age :32, Occupation : Nothing

**6) Smt. Kamal Ramesh Hajare**

Age: 38, Occupation : Housewife,

Applicant No. 1 to 6 R/o at Vengav,  
Tal.Karjat, Dist.Raigad,

**7) Smt. Vandana Vinayak Kolangadhe**

Age:36, Occupation : Housewife,  
Address: Near Ganpati Mandir, Naupada  
Mu. Post- Dombivali, Tal. Kalyan, Dist.-Thane

**8) Smt. Ranjana Vinod Tare**

Age:34, Occupation : Housewife,  
Address: Aashele Post.Tal- Ulhasnagar, Dist.-Thane

**9) Smt. Anajali Sandip Pavashe**

Age:32, Occupation : Housewife,  
Address: Mu.post Varape, Tal.-Karjat, Dist-Thane

**10) Vaishali Govinda Sonavale**

Address: Vengav, Tal.-Karjat, Dist.- Raigad

**... Applicant**

**Versus**

**1) Amruta Hari Sonavale**

Age :57, Occupation : Agriculture  
Address: Vengav, Tal.Karjat, Dist. Raigad

**1.1) Radhabai Amruta Sonavale**

Age : 56, Occupation : Housewife

**1.2) Sumit Amruta Sonavale**

Age :33, Occupation : Agriculture

**1.3)Sunita Amruta Sonavale**

Age : 28, Occupation : Housewife

**1.4) Kavita Amruta Sonavale**

Age: 26, Occupation : Housewife  
all R/o at. Dhakade Vengav, Post. Mothe Vengav,  
Tal. Karjat, Dist. Raigad

**2)Shri. Rajesh Nagarmal Bansal**

Age: 47, Occupation : Agriculture & Business,  
Address: Plot No.30, Road No. 4, Sector 1,  
New Panvel, Dist. Raigad

**3) Shri. Vineet Gupta**

Age: 39, Occupation: Agent of Land selling  
Address: Flat no.1001, Prime Tower, sector 21,  
Nerul east, New Mumbai, Dist. Thane

**4) Shri.Sunil Jain**

Age: 38, Occupation: Nil  
Address: G-12/5, Jalpadma Society, bangur nagar,  
Goregaon west, Mumbai 400 090.

**...Opponent.**

**Application for Heirship Certificate under the Bombay  
Regulation Act.**

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Advocate for applicants : Deepak Gaikwad  
Advocate for opponent : K.G. More /Demello  
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**JUDGMENT**

**(Delivered as on 13/03/2026)**

The present proceeding is filed by the applicants under Order XXXIX Rule 2A of the Code of Civil Procedure alleging willful disobedience of the injunction order passed by this Court in Regular Civil Suit No. 164 of 2008.

02. **The facts of the application, in brief, are as under:**

The applicants have filed Regular Civil Suit No. 164/2008 in respect of the suit properties bearing Survey Nos. 35/1, 36/2A, 51/6, 31/3 and 36/2B situated at village Vengaon, Taluka Karjat, District Raigad seeking reliefs in respect of the said properties. In the said suit, the applicants had filed an application for temporary injunction below Exhibit 5. The said application was partly allowed and by order dated 17 November 2008, this Court restrained Defendant No.1 from selling the suit property to Defendant Nos.2 to 4 and from creating third party interest in the suit property till 20 November 2008. Thereafter, by order dated 28 November 2008 below Exhibit 22, this Court extended the interim injunction till the filing of the written statement of Defendant No.1. Further, by order dated 02 December 2008 below Exhibit 29, this Court directed the parties to maintain status quo in respect of the suit property till the hearing of the temporary injunction application below Exhibit 5. Subsequently, by order dated 05 February 2009 below Exhibit 36, the said order was continued till the decision of the preliminary issue raised in the suit regarding pecuniary jurisdiction. According to the applicants, from 17 November 2008 till the filing of the present application, there was a subsisting order of injunction/status quo against the defendants and therefore they were not entitled to alienate the suit property in any manner.

3. It is the case of the applicants that during the subsistence of the said order, the defendants executed and registered a sale deed on 05 January 2010 in the office of the Sub-Registrar, Karjat bearing Registration No. 53/2010. According to the applicants, by executing the said sale deed, the defendants have willfully disobeyed the order of this Court and thereby committed contempt. Hence the present application is filed praying that the respondents be detained in civil prison for three months and directed to compensate the applicants for violation of the Court's order. In the present proceeding, the Respondent Nos.2 to 4 appeared and filed their say at Exhibit 53. They denied the allegations made in the application and contended that they have not committed any contempt of the order passed by this Court. It is the contention of Respondent Nos.2 to 4 that they had purchased the suit property from Respondent No.1 on 02 September 2004 by a registered agreement for sale and had already paid earnest money for the said transaction. It is further contended that permission to sell the property was obtained on 05 December 2009. The respondents further contended that the injunction orders dated 17 November 2008 and 28 November 2008 were passed only against Defendant No.1 and no specific order was passed against Respondent Nos.2 to 4. According to them, no third-party interest was created by them and therefore there is no violation of the order.

4. It is further contended that since Respondent

No.1 avoided execution of the sale deed despite receiving consideration, Respondent Nos.2 to 4 executed the document through power of attorney in order to avoid complications. They have further stated that they never intended to commit contempt of the Court and they are ready to cancel the document if so directed by the Court. Hence, they prayed for rejection of the application. In present matter the respondent No.1/1 to ¼ have filed purshis at exhibit 38 and adopted say respondent no.2 to 4.

5. Considering pleadings of applicant and respondent, the submission of the learned Advocate for applicant and respondents, following points arise for my determination to which I have recorded my findings against each of them for the reasons given below:-

Sr.No.	POINTS	FINDINGS
1	Whether the applicants prove that the respondents have willfully and deliberately disobeyed the injunction / status quo order passed by this Court in Regular Civil Suit No.164/2008?	<b><u>In the negative.</u></b>
	Whether the applicants are entitled to action against the respondents under Order XXXIX Rule 2A of the Code of Civil Procedure?	<b><u>In the negative.</u></b>

2.	What Order ?	<b><u>The application is rejected.</u></b>
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**Reason**

**As to point no. 1 & 2**

6. These points are interlinked with each other hence, for sake of convenience I am answering on both points together. In the present matter, the applicants have examined Gajanan Dhaku Sonawane at Exhibit-44. In his examination-in-chief by way of affidavit, he has reiterated all the facts stated in the present application. During the course of his cross-examination, he has admitted that on the application dated 20 November 2008, an order was passed restraining the defendants from creating any third-party interest in the suit property. He has further admitted that thereafter, by order passed below Exhibit-22, the said order was extended. He has further admitted that subsequently an order was passed below Exhibit-29, directing the parties to maintain status quo till the decision of the application below Exhibit-5. He has further admitted that the agreement to sell in respect of the suit property was executed by Defendant No.1 prior to filing of the present suit.

7. The applicants have also examined another witness Sanjay Ramchandra Sonawane at Exhibit-56. In his examination-in-chief, he has reiterated the facts stated in the application. During his cross-examination by the learned advocate for the respondents, he has stated that the

sale deed in favour of Defendant Nos.5 to 7 was executed in the year 2010. However, he has further admitted that he cannot say whether Respondent Nos.1/1 to 1/4 and Defendant Nos.2 to 4 have committed any offence or not. Thus, the evidence of both the witnesses shows that the agreement to sell in respect of the suit property was executed prior to filing of the suit and the witnesses themselves are not certain about the alleged disobedience of the order by the respondents. In the present matter, the applicants have filed a pursis at Exhibit 64 and closed their evidence.

8. On the other hand, the respondents have examined Kavita Amruta Sonawane as Witness No.1 at Exhibit-65. In her examination-in-chief by way of affidavit, she has reiterated the facts stated in the written say filed by the respondents. During her cross-examination by the learned advocate for the applicants, she has stated that she appeared in the present proceeding only after the death of her father. She has further stated that till the death of her father she had never appeared in the present matter nor participated in the proceedings. She has also stated that she does not know who executed the document dated 05 January 2010 and by whom it was executed.

9. The respondents have further examined another witness Vineet Gupta at Exhibit-68. In his examination-in-chief by way of affidavit, he has stated that Respondent

No.1 had executed an agreement for sale in favour of Respondent Nos.2 to 4 on 02 September 2004. He has further stated that the respondents were not aware about the orders passed by the Court in Regular Civil Suit No.164 of 2008. He has also stated that since Respondent No.1 was likely to sell the suit property to some third person, the sale deed dated 05 January 2010 came to be executed through the power of attorney holder of Respondent No.1 in favour of Respondent Nos.2 to 4. During the cross-examination of this witness, he has stated that he does not remember whether he had appeared in Regular Civil Suit No.164 of 2008. During the course of his cross-examination, he has also admitted that the sale deed was executed when the order passed by this Court was in force.

10. From the record, it appears that Respondent No.1 – Amruta Hari Sonawane expired on 03 April 2014. Her legal heirs have been brought on record as Respondent Nos.1/1 to 1/4. Considering the nature of the present proceeding, it is pertinent to note that the present proceeding is initiated under Order XXXIX Rule 2A of the Code of Civil Procedure, which is in the nature of a contempt proceeding. Such proceedings are essentially personal in nature and are required to be proceeded against the person who has allegedly committed the disobedience of the order of the Court. Therefore, ordinarily such proceedings cannot be continued against the legal representatives of the alleged contemnor.

11. I have gone through the documents filed by the applicants on record. The applicants have produced the certified copy of the plaint in Regular Civil Suit No. 164 of 2008, the certified copy of the application below Exhibit-5 for temporary injunction and the order passed thereon. On perusal of the order below Exhibit-5, it appears that the Court had directed that Defendant No.1 is restrained from selling the suit property to Defendant Nos.2 to 4 and from creating any third-party interest till 20 November 2008. The applicants have further produced the certified copy of the application below Exhibit-22 dated 20 November 2008. I have carefully gone through the said application and the order passed thereon. It appears that on the said application the Court passed an order stating that since Defendant No.1 sought time for filing his say and written statement, the interim injunction order passed earlier against Defendant No.1 was extended till filing of the say and written statement of Defendant No.1. Thereafter, the applicants have also produced the certified copy of the application below Exhibit-29 in Regular Civil Suit No.164/2008. On perusal of the said application and the order passed thereon, it appears that the plaintiffs in the original suit had contended that Defendant No.2 had appeared in the matter but had not filed his say or written statement, and therefore prayed for passing a status quo order against Defendant No.2. On the said application, the Court passed an order directing that status quo be maintained against Defendant No.2 till the hearing of the application below Exhibit-5.

12. The applicants have also produced the certified copy of the application below Exhibit-36 in Regular Civil Suit No.164/2008, wherein the plaintiffs had prayed that the status quo order be extended till the decision of the preliminary issue raised in the suit. On the said application, the Court passed an order directing that the status quo order be continued till the decision of the preliminary issue. From the pleadings of the applicants as well as the documents placed on record, it appears that the main allegation of the applicants is that Respondent No.1, despite the subsisting status quo order, executed a sale deed in favour of Respondent Nos.2 to 4. However, on a plain reading of the orders passed in Regular Civil Suit No.164 of 2008, it appears that the status quo order was specifically directed against Defendant No.2, whereas the earlier injunction order dated 17 November 2008 restrained Defendant No.1 from selling the suit property till 20 November 2008, which was subsequently extended till filing of his say and written statement. Thus, from the record it appears that the nature and scope of the orders passed by the Court were limited and were directed against specific defendants at different stages. By order dated 05 February 2009, this Court directed that the status quo order shall continue till the decision of the preliminary issue framed in the suit.

13. The respondents have relied upon documentary evidence, namely the certified copy of the order passed

evidence, namely the certified copy of the order passed below exhibit 5 in Regular Civil Suit No.164 of 2008 and the order passed below exhibit 27 in respect of the preliminary issued dated 30 April 2011. The respondents have produced the certified copies of the said documents at Exhibits 87 and 88. From the above evidence and material available on record, it appears that the person who had executed the sale deed through the power of attorney holder is no more, as he expired during the pendency of the present application. Further, from the perusal of the certified copies of the order passed in Regular Civil Suit No.164 of 2008, it appears that there was no specific status quo order passed against Respondent No.2 to 4 restraining them from executing the sale deed. The material on record indicates that the property was transferred and third-party interest was created by Respondent No.1, who is no longer alive during the pendency of the present proceedings.

14. It is the contention of the applicants that Respondent No.1 – Amrita Hari Sonawane executed a sale deed on 05 January 2010 when the said status quo order was in force, and therefore the respondents have committed breach of the order passed by this Court. From the perusal of the record, it appears that during the pendency of the suit Amrita Hari Sonawane expired and her legal heirs were brought on record. It further appears from the record that no specific injunction order was passed against Respondent Nos.2 to 4 restraining them from dealing with the suit

property. From the perusal of the certified copy of the sale deed, it appears that the sale deed dated 05 January 2010 was executed through the power of attorney holder of Respondent No.1, namely Rajesh Nagarmal Bansal.

15. I have carefully considered the pleadings of both the parties, oral evidence adduced by them and the documentary evidence placed on record. The applicants have alleged that Respondent No.1 Amruta Hari Sonawane executed the sale deed dated 05 January 2010 in favour of Respondent Nos.2 to 4 despite the subsisting status quo order passed by the Court in Regular Civil Suit No.164/2008, and therefore the respondents have committed breach of the order of the Court. From the record it appears that initially an order was passed below Exhibit-5 restraining Defendant No.1 from selling the suit property and from creating third party interest till 20 November 2008. Thereafter, by subsequent orders passed below Exhibit-22 and Exhibit-29, the interim arrangement was continued in a limited manner and status quo was directed in respect of certain defendants. However, from the plain reading of the orders produced on record, it appears that no specific injunction order was passed against Respondent Nos.2 to 4 restraining them from executing the sale deed. It has also come on record that the sale deed dated 05 January 2010 was executed through the power of attorney holder of Respondent No.1. Further, during the pendency of the present proceeding Respondent No.1

Amruta Hari Sonawane expired on 03 April 2014 and her legal representatives have been brought on record.

16. Proceedings under Order XXXIX Rule 2A of CPC are in the nature of contempt proceedings, and such proceedings are essentially personal in nature. Action under the said provision can ordinarily be taken only against the person who has allegedly disobeyed the order of the Court. In the present case, the person who is alleged to have violated the order of the Court, namely Respondent No.1, is no more. The alleged act of creating third party interest in the suit property is attributed to Respondent No.1, and there is no material on record to show that Respondent Nos.2 to 4 have willfully and deliberately disobeyed the order passed by the Court. Moreover, the evidence of the witnesses also does not clearly establish deliberate or intentional disobedience of the Court's order by the respondents. Therefore, considering the nature of the orders passed in the suit and the evidence available on record, I found that the applicants have failed to prove willful disobedience of the order of the Court by the present respondents. Hence, the applicants are not entitled to invoke the provisions of Order XXXIX Rule 2A of the Code of Civil Procedure against the respondents. Accordingly, I answer Point Nos.1 and 2 in the Negative.

**As to Point no.3**

17. In view of finding of the above points the application

deserved to be reject. Hence, I proceed to do following order:

**ORDER**

The application is rejected with cost.

Place :Karjat

Date :13/03/2026

Sd/-  
(Smt. A. S. Wadkar)  
Civil Judge, J.D., Karjat  
Dist-Raigad.