

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CONTEMPT PETITION NO. 744 OF 2022

Asad Anwar Khatau ..Petitioner

V/s.

State of Maharashtra and Ors. ..Respondents

**WITH
CONTEMPT PETITION (ST) NO. 913 OF 2023**

Ashok Gokaldas Gurnani Thr.
C.A.Komal Gopi Chhabria ..Petitioner

V/s.

State of Maharashtra and Ors. ..Respondents

**WITH
CONTEMPT PETITION NO. 742 OF 2022**

Sagar Ashok Bhosle and Ors. ..Petitioners

V/s.

State of Maharashtra and Ors. ..Respondents

**WITH
CONTEMPT PETITION (ST) NO. 27292 OF 2022**

Shekhar K.Mahalxmikar ..Petitioner

V/s.

State of Maharashtra and Ors. ..Respondents

**WITH
CONTEMPT PETITION (ST)NO. 27296 OF 2022**

Rahul Vivek Nadkarni and Anr. ..Petitioners

V/s.

State of Maharashtra and Ors. ..Respondents

**WITH
CONTEMPT PETITION NO. 745 OF 2022**

Ansari Mohammed Zaki ..Petitioner

V/s.

State of Maharashtra and Ors. ..Respondents

**WITH
CONTEMPT PETITION NO. 743 OF 2022**

K.Ahrafuddin ..Petitioner

V/s.

State of Maharashtra and Ors. ..Respondents

**WITH
CONTEMPT PETITION NO. 741 OF 2022**

Vasant Rohidas Lotlikar ..Petitioner

V/s.

State of Maharashtra and Ors. ..Respondents

Mr. Manish Gala i/by Law Square for the Petitioners in 8 WPs.
Mrs.S.S.Bhende AGP for the Respondent No.1 to 3.
Mr. Makarand V. Raut for Respondent No.5 to 8 in above 8
WPs.

**CORAM : R.D.DHANUKA, AND
GAURI GODSE, JJ.**

DATE : 21 MARCH 2023

P.C.

. By this Contempt Petitions, the Petitioners have prayed for initiation of action under the Contempt of Courts Act against the Contemnors viz. Respondent No. 2 and 3 for wilful disobedience of order passed by this Court dated 27/04/2022 and also has prayed for order and direction against the Respondent No.2 and 3 to forthwith purge themselves of the contempt by complying with the order passed by this Court on 27/04/2022.

2. The Maharashtra Real Estate Regulatory Authority has passed an order dated 27/08/2018 for issuing recovery warrant under Section 40(1) of Real Estate (Regulation and Development) Act, 2016 read with Rules, thereby attaching various estates of the Petitioners. We have perused the order passed by this Court on 27/04/2022, recording the statement made by learned Counsel for Respondent Nos.5 to 8 that they have bonafide interest of repaying the amount to the Petitioners as per the orders passed by Member and Adjudicating officer MahaRera, Mumbai.

3. Though such statement was made, this Court made it clear that if within a period of 3 months, settlement between the Petitioner and Respondent Nos.5 to 8 is not arrived at, then immediately within 15 days, the Tahasildar/Competent Authority shall execute the Recovery Warrant as per the provisions of Maharashtra Land Revenue Code attaching and selling the property of the Respondent Nos. 5 to 8.

4. This matter has been placed on board on various occasions when at the request of the learned Counsel for Respondent Nos. 5 to 8 on behalf of his clients prayed that the Petitioners would be paid the amount in installments. This Court showed leniency to the Respondent Nos.5 to 8. The Petitioners have invested their hard-earned money in the Projects undertaken by Respondent Nos. 5 to 8. The Petitioners neither got their flats nor refund of the amount paid by them. This Court has made various observations about the conduct of the Respondent Nos. 5 to 8.

5. On 08/03/2023, we recorded the statement made by Mr.Raut learned Counsel for the Respondent Nos. 5 to 8 that second installment of Rs.33 Lakhs could not be paid because of certain unavoidable circumstances and that Respondent Nos.

5 to 8 would pay an amount of Rs.60 Lakhs to the Petitioners by 5.00p.m. of 17th March 2023. This Court accepted the statement as and by way of undertaking to this Court. We have been informed that the said order also has not been complied with. Similar opportunity was given by this Court by Order dated 13/2/2023.

6. Learned counsel for Respondent Nos. 5 to 8 tendered a Chart and submitted that the balance amount would be paid in installments till January-2024. We are not inclined to grant any further time for installment to Respondent Nos. 5 to 8. In our prima facie view, the Respondent Nos. 5 to 8 have committed a gross contempt of the orders passed by this Court not only on 27/04/2022 but also subsequent orders passed in Contempt Petition. Though this Court has shown leniency from time to time to the Respondent Nos. 5 to 8, there are consistent defaults committed by Respondent Nos. 5 to 8. Office is directed to issue Show Cause Notice to Respondent No.5 to 8 under the provisions of Contempt of Courts Act, 1971 read with Article 215 of Constitution of India to show cause as to why an appropriate action under the provisions of Contempt of Courts Act 1971 read with Article 215 of Constitution of India should not be initiated against the

Respondent Nos. 5 to 8 for violating the order dated 27/04/2022 passed by this Court and subsequent orders passed by this Court on 22/12/2022, 13/02/2023 and 08/03/2023, returnable on 18/04/2023.

7. We direct the State Government to execute the certificate issued by the RERA within two weeks from today without fail. Interim orders passed by this Court attaching the various properties of the Respondent Nos. 5 to 8 to continue during the pendency of this Contempt Petitions. Respondent Nos. 5 to 8 to remain present before this Court on the next date and thereafter as and when the matter appears on board, personally, till their personal appearance is exempted by this Court. With a view to grant an opportunity to purge contempt, Respondent Nos. 5 to 8 are directed to pay the amount in accordance with the Certificate issued by the RERA and the authority on or before the returnable date.

GAURI GODSE, J.

R.D.DHANUKA, J.