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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO. 8 OF 2025
WITH
TESTAMENTARY PETITION NO. 5663 OF 2024

Usha Uday Nayak and Ors.

.. Petitioners

Versus

Rajiv Damodar Nayak and Ors.

.. Respondents

.....

- Mr. Aniesh Jadhav a/w. Mr. Dipesh A. Jain, Advocates for Petitioners.
- Mr. Rajesh Kachare, Advocate for Respondents.

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 21, 2026.

P.C.:

1. Heard Mr. Jadhav, learned Advocate for Petitioners and Mr. Kachare, learned Advocate for Respondents.

2. This is a Contempt Petition with respect to the order passed by this Court whereby allegation is made against the Respondents. Petitioner is represented by Mr. Jadhav who is the wife of the deceased brother.

3. Respondent No.1 before me is another brother who is present in person. He is duly represented by Mr. Kachare. After hearing learned Counsel, the contempt can undoubtedly be purged, but there is a larger long term solution which has been placed before the Court by Mr. Kachare, which can undoubtedly be explored by this Court in order

to put an end to the *lis* between the parties. It would be appropriate, if both the parties cooperate on the preliminary submissions made by the parties in Contempt Petition and it appears that if valuation of the contentious flat is done, it would enable both the parties to take appropriate decision whether to buy each others' right or otherwise.

4. There is one flat which is the subject matter of the suit proceedings between the two brothers, one of whom has expired in the interregnum. There are other properties also, but even if this Court is able to determine the issue with respect to one flat, it will go a long way in determination of the *lis* between the parties for the other properties also. Hence, a suggestion is made by Mr. Kachare that valuation exercise if undertaken for this particular flat of which contempt is alleged namely Flat No.B-901 situated in Tirupati Apartments, Peddar Road, Mumbai, it will go a long way in ameliorating the grievances of both the parties. I see no reason to why passing such an order for valuation of the flat can affect the parties, especially when one of the party is willing to undertake the exercise.

5. Mr. Jadhav submits that according to his instructions, if such an order is required to be passed it should apply to all the immovable properties. Both the parties shall take appropriate instructions and let the Court know about this aspect also as there appears to be some disagreement on this aspect. Liberty to both parties to apply. For the

moment, I find no reason to reject the request made by Mr. Kachare because he is making every effort to purge the contempt in the Contempt Petition. He has also submitted that his client will pay the Valuer's charges for valuation of the subject flat.

6. Without going into the details of the issues which are involved in the Contempt Petition, Mr. Purushottam G. Redekar, Architect of GM Arch Pvt. Ltd., having office address at 3 Mercury CHS, Jagat Vidya Marg, opposite Hallmark Business Plaza, Bandra (East), Mumbai – 400 051 (Mobile No.9820032623) is appointed as Valuer to undertake the valuation of the aforesaid flat premises and submit Valuation Report of the value of the above flat as on date. Valuer shall conduct inspection, survey, measurement and prepare appropriate Valuation Report. The said flat shall be opened by the Petitioners who have the key to the main door and the Respondent who has the key to one of the bedroom for the Valuer on the date of inspection. Appropriate advance notice shall be given by the Valuer to both the learned Advocates of the parties who shall ensure that their respective clients shall remain present on the appointed date. Advocate Mr. Kachare shall interact and coordinate with the Valuer Mr. Purushottam G. Redekar of GM Arch Pvt. Ltd. and apprise him of this order and coordinate with Mr. Jadhav of the other side.

7. Parties are directed not to argue with the Valuer on the date of visit because Valuer is appointed solely for the purpose of survey, inspection and measurement in order to prepare the Valuation Report i.e. determining market value of the flat and place it before the Court for consideration. Copy of the said Valuation Report shall be served on both the parties also by the Valuer once prepared.

8. Once the parties get the Valuation Report, the Court shall hear submissions on behalf of both parties *qua* the subject flat and / or for any other properties also, if so required.

9. Liberty to apply to the Court in case if the parties require Valuation Report to be prepared for the other properties also in the interregnum.

10. Mr. Kachare after taking instructions from his client - Respondent who is present before the Court informs the Court that Respondent shall alone bear all expenses of the Valuer for preparation of the Valuation Report of the aforesaid flat in Tirupati Apartments. Any relevant documents that may be required by the Valuer regarding the said flat are directed to be given to the Valuer for the purpose of Valuation by either / both the parties before me. If more than one visit is required to be undertaken same shall be coordinated by the learned Advocates with the Valuer. The Society where the flat is situated shall also cooperate with the Valuer during site visit.

11. Let the aforesaid exercise be carried out within a period of six weeks from today and appropriate Report be placed before the Court by the Valuer directly or through both the parties.

12. Stand over to **9th June 2026**.

[MILIND N. JADHAV, J.]

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by AJAY
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Date: 2026.04.21
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