

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

CONTEMPT PETITION NO. 3 OF 2022

IN

SUIT NO. 2442 OF 2012

Atlanta Limited

.Petitioner

Versus

Samina Arif Khan & anr.

.Respondents

Ms. Aparna Devkar i/b. M. P. Vashi & Associates, Advocate, for the
Petitioner

Ms. Aditi Chaurasia i/b. V K Dubey & Associates, Advocate, for
Respondent No. 1

CORAM : MADHAV J. JAMDAR, J.

DATE : 06.09.2024

P. C.

1. Earlier C. P. No. 89 of 2014 was filed in this Court and a learned Single Judge (Coram : K. R. Shriram, J.) by Order dated 29.06.2017 admitted the Petition and had directed registry to issue notice to the Respondents. Thereafter, the Consent Minutes of the Order came to be passed in Suit No. 2442 of 2012.
2. Clause Nos. 3 & 4 of the Consent Minutes of Order are very important which read as under :-

“3. It is however agreed between the parties that in case the defendant No. 1 pays to the plaintiff a sum of Rs. 4 crore on or before 3rd May, 2020, the decree will be marked as satisfied and no further amount will be due and payable by the defendant to the plaintiff.

4. *The defendant gives plot of land bearing CTS No. 1108, admeasuring about 568.8 sq. mt. situated at Devrukhkar Wadi, Mindspace, behind Evershine Mall, Link Road, Malad West, Mumbai 400064 as a security for the decretal amount. Accordingly, the defendant agrees and undertakes that the defendant will not alienate, encumber or create third party rights in respect of the said plot of land till the decree is marked satisfied and without consent of the Plaintiff and order of this Hon'ble High Court. Hereto annexed and marked as Annexure "A" is the CTS plan showing the said land."*

3. It is submitted by Ms. Devkar, learned counsel for the Petitioner that the statement recorded in Clause No. 4 of the Consent Minutes of the Order is totally incorrect and Defendant No. 1 i. e. Contemnor has not disclosed that she has only 1/3rd share in the said property and already possession of the same has been taken over and the property is attached. She submits that the Respondent No. 1 has misled this Court while giving undertaking. The relevant part of the affidavit-in-reply filed by the Respondent No. 1 is paragraph No. 8.

4. Thus, *prima facie*, I am satisfied that the Contemnor i. e. Respondent No. 1 has committed contempt. By Order dated 23.08.2024, Respondent No. 1 – Samina Arif Khan alias Dhanlaxmi Chandru Devrukhkar was directed to remain present in Court. In spite of the said directions, Respondent No. 1 failed to remain present.

5. Accordingly, issue bailable warrant against Respondent No. 1 returnable on **20.09.2024**.

[MADHAV J. JAMDAR, J.]