

IN THE HIGH COURT OF JUDICATURE AT BOMBAY.

ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO.37 OF 2013

Movin F. D'Souza ... **Petitioner**

V/s.

Vivian D/o Wilfred Fonseca & Ors. ... **Respondents**

Mr A.J. Almeida for Petitioner.

CORAM : R.D.DHANUKA J.
DATED : AUGUST 28, 2013.

P.C.

Petitioner has filed this petition under the provisions of Contempt of Courts Act 1971 for seeking appropriate action to be taken against the respondents for willfully violating the orders dated 3rd October, 2000 and 8th January, 2002 passed by this Court.

2. Respondent No.1 had filed a suit (3432-96) in this Court for partition of the suit property. Petitioner was impleaded as defendant No.21 in that suit who claimed independent rights. By an order dated 3rd October 2000 an ad interim relief was granted by this Court in respect of the suit property. The said ad interim order was confirmed by an order dated 8th January 2002. Pursuant to the said order appointing Court Receiver, Court

Receiver dispossessed the petitioner herein and appointed respondent No.10 as an agent of the Court Receiver on 17th March 2005.

3. It is the case of the petitioner that though Court Receiver was appointed and the suit property was in his custody, by deed of conveyance dated 8th August 2012 entered into between respondent No.1 to 8 to this proceedings and respondent Nos.11 to 13, respondent Nos.1 to 8 have sold their alleged share of 53% in the suit property in favour of respondent Nos.11 to 13. Petitioner came to know about these facts when show cause of notice was issued by Tahsildar, Borivili on application filed by respondent No.11 to 13 for recording their names in the revenue record.

4. Mr Almeida, learned counsel appearing for the petitioner submits that since Court Receiver was appointed in respect of the suit property, no party could deal with the said property.

5. On perusal of the order passed by this Court and the averments made in para 15 of the petition, I am of the prima facie view that respondent Nos.1 to 8, 10 and respondent Nos.11 to 13 have committed willful disobedience of the order passed by this Court on 3rd October 2001 and 8th January 2002 by entering into a deed of conveyance in spite of the appointment of Court Receiver in respect of the said property. In my prima facie view, no party can deal with the property when the property is in

custodia legis.

6. Issue show cause of notice to respondent Nos.1 to 8, 10 and 11 to 13 as to why an appropriate action should not be taken against them under the provisions of Contempt of Court Act for willful disobedience of the order passed by this Court on 3rd October 2001 and 8th January 2002. Notice is made returnable on **25th September 2013**.

(R.D.DHANUKA, J.)