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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CONTEMPT PETITION NO.75 OF 2015 IN
WRIT PETITION NO.974 OF 2012

Kagalwala Building Resident
Welfare Association ...Petitioner
vs.
Aaraish Developers & Ors. ...Respondents

Mr.Javed A. Khan for the Petitioner
Mr.Kamran Shaikh for the respondent No.2
Mr.Nikhil Patil i/b Mr.V.P.Sawant for respondent
No.6
Ms K.H.Mastakar for MMC.

CORAM : A.S.OKA, &
RIYAZ.I.CHAGLA,JJ.
DATE : JUNE 11, 2018

P.C.:

1 It is not in dispute that one Mohammad Ismail Lakdawala who has filed an affidavit in reply as a partner of the first respondent-firm. Our attention is invited to the order dated 26th February 2018 passed by a Division Bench of this Court in Writ Petition No.974 of 2012 to which the first respondent-firm was a party. As per the said order, the first respondent was directed to pay various amounts to the petitioner as per the consent terms filed in Appeal from Order No.1098 of 2008 and the order dated 29th June 2012 in the said Appeal from Order and other connected Appeals.

2 The Contempt Notice has been issued to the second to fifth respondents. The second respondent

has since expired. Today the learned counsel appearing for Shri Mohammad Ismail Lakdawala who is personally present in the Court who is admittedly a partner of the first respondent states that the first respondent is not in a position to pay amounts as specified in the consent terms filed in Appeal from Order No.1098 of 2008 and the order 29th June 2012. He relies upon the order dated 18th July 2017 and the paragraph 6 thereof. We find from the tabular sheet that the amounts mentioned therein are only for the period till the end of calendar year 2015.

3 Even today the said Mohammad Ismail Lakdawala is not willing to comply with the order dated 29th June 2012. Today, he has tendered across the bar a Banker's Cheque in the sum of Rs.16,28,892/- drawn on Prothonotary and Senior Master of this Court. We direct Shri Mohammad Ismail Lakdawala to present the said Banker's Cheque to the Prothonotary and Senior Master within one week from today.

4 From the above discussion, prima facie, it appears to us that the said Mohammad Ismail Lakdawala has committed a breach of order of which breach is complained of and the said breach is wilful. We, therefore direct that the notice under Rule 9(1) of the Contempt of Court (Bombay High Court) Rules,1994 be issued to the said Mohammad Ismail Lakdawala at the address of the first respondent mentioned in the cause title. Notice is made returnable on 24th July 2018 when the said

contemnor shall personally remain present in the Court.

5 Though the contempt notice was issued to the third to fifth respondents on 15th February 2017, service report of the same is not available on record. Issue fresh notice to the said respondents in terms of the order dated 15th February 2017 calling upon them to personally remain present on the returnable date. On the returnable date, the contempt petition shall be listed under the caption of `Fresh Admission`.

(RIYAZ.I.CHAGLA,J.)

(A.S.OKA,J.)

