

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
APPELLATE SIDE  
CONTEMPT PETITION NO.353 OF 2004  
IN  
APPEAL FROM ORDER NO.220 OF 2004

Mrs. Kantaben Manubhai Desai .... Petitioner  
Vs.  
Hanumansharan Mishra & Anr. .... Respondents

Shri S.B. Rao i/b M/s. Ram & Co. for  
the Petitioner.

Shri M.V. Holmagi for the Respondent.

**CORAM:** R.M.S. KHANDEPARKAR, J.

**DATED:** NOVEMBER 30, 2004

**P.C:**

1. Heard the learned Advocates for the parties.
  
2. The petitioner's grievance is that inspite of undertaking given to the Court that in case of refusal of regularisation the respondent (No.1) would demolish the wall in question, he did not demolish the same and ultimately the petitioner had to demolish the same, and even after demolition the respondent has raised some temporary structure and continue to occupy the said area and by those acts the respondent has violated the order dated 6-4-2004. Undisputedly, on account of failure on the part of the respondent to demolish the wall, the petitioner herself had demolished the wall and there was

no obstruction of whatsoever nature in the course of demolition of the said wall. Obviously there was no wilful default as such on the part of the respondent in the matter in relation to the said order passed by this Court on 6-4-2004.

3. As regards the prayer pertaining to the erection of a temporary structure and occupation of the area, undisputedly, there is no specific direction against the same in the said order dated 6-4-2004 and therefore it cannot be construed that those acts are in violation of the order dated 6-4-2004 and hence there is no case for proceeding against the respondents for contempt of Court. The petition, therefore, is rejected. The notice stands discharged.

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