

**HIGH COURT OF JUDICATURE FOR RAJASTHAN  
BENCH AT JAIPUR**

S.B. Civil Contempt Petition No. 795/2021

Ishwardas Alias Ishwar S/o Late Shri Ramchand

----Petitioner

Versus

Dr. Heeranand S/o Late Shri Hansaram through LRs

----Respondents

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For Petitioner(s) : Mr. Alok Chaturvedi through V.C.

For Respondent(s) : Mr. Neeraj Kumar Tiwari through V.C.

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**HON'BLE MR. JUSTICE SUDESH BANSAL**  
**Order**

**07/01/2022**

This contempt petition has been filed, alleging deliberate and willful non-compliance of the undertaking, given dated 30.10.2019 by the respondents-contemnors No.1/1 Tulsi Meerchandani and ½ Sehjanand for vacating the rented shop and handing over the possession of rented shop on or before 13.10.2021, pursuant to the final judgment and order dated 14.10.2019 passed in S.B. Civil Second Appeal No. 12/2018.

Counsel for the petitioner submits that both the respondents-contemnors have flouted the benefit granted to them by this Court vide order dated 14.10.2019 subject to furnishing undertaking to vacate and hand over the vacant possession of rented shop to the petitioner on or before 13.10.2021. But even till date the actual and physical vacant has not been handed over. Therefore, the respondents at the face of record guilty for committing the contempt of Court.

The respondents were summoned throughailable warrants and thereafter have appeared through advocate and filed reply to the contempt petition on 13.12.2021. In the reply, it has been admitted that answering respondents furnished written undertaking dated 30.10.2019 pursuant to the order of High Court dated 14.10.2019, to vacate the rented shop to the petitioner before 13.10.2021 and the respondents are still ready and willing to hand over the peaceful possession to the petitioner/plaintiff.

Thus, by apparent admission of the respondents in their reply dated 13.10.2021, it is more clear on the face of record that even till

date of filing of the reply on 13.12.2021, the respondents have not vacated and delivered the peaceful possession to the petitioner/plaintiff though they were under duty and obligation to vacate and hand over the possession before 13.10.2021. Thus, this disobedience and non-compliance of the undertaking given by the respondents is apparent on the face of record. As per Definition of civil contempt, described in Section 2 (b) of the Contempt of Court Act 1971, the civil contempt means willful disobedience of any judgment, decree, direction, order, writ or other process of a Court or willful breach of an undertaking given to a Court. In the present case, the respondents have breached the written undertaking given to the Court. Therefore, they are prima facie guilty for committing contempt and liable to be punished under the Contempt Court Act, 1971. However, before awarding any punishment for contempt, this Court deems it just and proper to grant one opportunity to respondents to purge the contempt and to vacate and hand over the suit shop to the petitioner within a period of three days. If the respondents deliver and hand over the possession to the petitioner, the petitioner shall issue receipt of receiving the possession, to the respondents. The respondents shall produce the receipt of handing over the possession to the petitioner, before the next date albeit both respondents would remain present in person before this Court for purpose of passing appropriate orders.

Put up on 11.01.2022.

(SUDESH BANSAL),J

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