

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CONTEMPT PETITION NO. 40 OF 2010

Karimkhan s/o Sardarkhan
since died through his L.Rs.

1 (i) Rasulkhan s/o Karimkhan,
Age: 55 years, Occ: Labour,
R/o. Sadar Bazar, Ambajogai,
Dist. Beed.

1(ii) Shaukat s/o Karimkhan,
Age: 45 years, Occ: Labour,
R/o. Sadar Bazar,
Ambajogai, Dist. Beed.

(Name of petitioner No.1(ii)
deleted as withdrawn as per
leave granted by Hon'ble Court)

...Petitioners

versus

1. Nagar Parishad,
Ambajogai, through it's
Chief Officer, Shri. Shivaji Jadhav,
Age: 42 years, Occ: Service,
R/o. Ambajogai, Dist. Beed.

2. Smt. Yusufunisa @ Fauziya Tanveer
w/o Dr. Mohd. Manzerul Hasan
R/o. Bangalore, through
Power of Attorney Holder
Mohd. Sujauddin Ansari
s/o Moh. Shamsuddin Ansari
Age: 48 years, Occ: Kare Divani Awal
Dargah Aland, R/o. Roza Building
Shankar Bawali, Gulbarga,
Dist. Gulbarga Karnataka State.
(Resp.No.2 is shown as dead
as per Registrar's order dtd. 28/8/2011)

...Respondents

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Mr. M.M. Patil (Beedkar), Advocate for petitioners
Mr. V.V. Bhavthankar, Advocate for respondent No.1

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CORAM : N.W. SAMBRE, J.

DATE : 3rd AUGUST, 2015

ORAL ORDER :

Heard Mr. Patil, learned Counsel for the petitioner. The petitioner alleges disobedience of the order dated 14/07/2009 passed by the District Judge-1, Ambajogai below Exhibit-5 in Regular Civil Appeal No. 57 of 2009. Learned District Judge, by the interim arrangement has passed following order.

“Execution of the Judgment and decree to the extent of handing over possession of disputed suit property to respondent No.1/plaintiff in R.C.S. No. 238/1975 is hereby stayed till disposal of this appeal.”

2. The fact remains that the appeal is still pending. It is further claimed that respondent No. 1 Municipal Council has demolished the part of structure which was protected by the above referred order. As such, according to the petitioner, there is contempt.

3. Respondent-Chief Officer has filed affidavit in reply and in categorical terms has stated that the original structure which was subject matter of the suit and appeal was at all not touched. What was raised was illegal structure and possession is remained with that

of the petitioner.

4. In response to Court's query that whether structure is sanctioned by competent authority, no evidence to that effect is produced by the petitioner and it is the case of respondent that structure is not sanctioned/approved by the Municipal Council.

5. In view of above statement and in the background of the fact that there is no sanction by the Municipal Council, the structure that was demolished, in my opinion, no case for taking cognizance. Contempt Petition fails, same stands dismissed.

[N.W. SAMBRE, J.]