

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

CIVIL APPLICATION NO.197 OF 2012 WITH
CONTEMPT APPEAL STAMP NO.21231 OF 2011 IN
CONTEMPT PETITION NO.169 OF 2006

Inderlal s/o Tulsomal Kamora ... APPLICANT

VERSUS

The State of Maharashtra & ors. ... RESPONDENT

.....
Shri A.H. Kasliwal, Advocate for applicant
Mrs. Y.M. Kshirsagar, A.G.P. for State
.....

CORAM: S.V. GANGAPURWALA AND
 A.I.S. CHEEMA, JJ.

DATED: 23rd March, 2015.

ORAL ORDER :

1. Mr. Kasliwal, the learned counsel submits that, the Court has not disposed of the Contempt Petition on merits. It has only observed an order which was passed earlier. As such, the same is a dismissal in default and against the same, the appeal would be tenable. The learned counsel relies on the

judgment of Division Bench of this Court, in the case of Clough Engineering Ltd., Australia Vs. Oil and Natural Gas Corporation, Mumbai [2009 (III), Mh.L.J. 553].

2. We have considered the order passed by the learned Single Judge. The learned Single Judge, while passing the order, has observed :

3. I have carefully perused the order dated 7.2.2007, passed by this Court in Contempt Petition No.166/2006. Para 2 of the said order is reproduced hereinbelow :

“2. It appears that the contempt matter is filed as Tahsildar, Nanded did not make necessary entries in revenue record in spite of the direction given by the Court and consequent upon the judgment and order passed by the lower appellate Court in his favour. It is submitted on behalf of the State that Zilla Parishad is necessary party as the land in question is in the possession of Zilla Parishad Nanded. Moreover, there is no direction issued by this Court or any Court and, therefore, there is no question of any breach committed by the present respondents. In other words, there is absolutely no cause of action to file the contempt matter. Hence, the contempt petition stands dismissed for want of merits, with no order as to costs.”

4. Bare perusal of para 2 of the said order would show that this Court had adjudicated the said contempt petition on merits. There are observations on merits in para 2 of the order dated 7.2.2007 in Contempt Petition No.169/2006.

5. Since the Contempt Petition is dismissed for want of merits, in my opinion, application filed by the applicant to restore the same cannot be entertained. No any legal provision is brought to the notice of this Court to entertain this application. Hence, application is devoid of any merits. Same stands rejected.

3. It cannot be said that the Court has not considered the merits of the matter. The Court has considered it in one way or the other. In view of the judgment of the Supreme Court in the case of Midnapore Peoples Co-op. Bank Ltd. & ors. Vs. Chunilal Nanda & ors. [2006(5) SCC 399], the appeal against such order would not be tenable. In light of that, the appeal as well as the application stand disposed of.

(A.I.S. CHEEMA, J.)

(S.V. GANGAPURWALA, J.)