

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

CONTEMPT PETITION NO. 209 OF 2015

***IN
WRIT PETITION NO. 7597 OF 2011***

Shri Gurudutt Dyanpith Morave

... Petitioner

Vs

Mrs. Ashwini Bhide, Secretary,
School Education, Sports Dept.

... Respondent

None for the Petitioner.

Mr. V.M. Mali, AGP, for the Respondent - State.

***CORAM : S.C. DHARMADHIKARI &
G.S. PATEL, JJ.***

THURSDAY, 05TH SEPTEMBER, 2019

P.C. :

1 Though parties are not present, there is an error and
ex facie which does not require us to go behind anything, much
less perusing the original record of the writ petition. The order of
16th March, 2015, is stated to be passed on Contempt Petition (St)
No. 2209 of 2015. That order reads as under :

*“ Learned counsel appearing on behalf of the Petitioner seeks
leave to withdraw the petition, with liberty to file fresh, if
necessary. Writ Petition is allowed to be with liberty, as*

prayed, and is accordingly disposed of.”

2 A bare perusal of this order would denote that the writ petition was allowed to be withdrawn with liberty and was disposed of. The Contempt Petition was, therefore, to be disposed of simplicitor, instead of the same being allowed to be withdrawn. It is well settled that a Contempt Petition cannot be withdrawn because these are proceedings which are by themselves quite distinct in nature as they are between the Court and the contemnor. Therefore, the Contempt Petition would not survive was possibly in the mind of the Division Bench and the Division Bench wanted to dispose of the Contempt Petition. That is how the order would read.

3 We correct it by substituting the order of 16th March, 2015, with the following words :

“In the light of the disposal of the Writ Petition and finding that no useful purpose would be served by now dealing with the Contempt Petition, it stands disposed of.”

The order be substituted and corrected accordingly.

4 Both the Hon'ble Judges have retired and/or demitted office and are not available and, in terms of the assignment of judicial work, the applications of this nature have been placed before a Bench headed by one of us (S,.C. Dharmadhikari, J.).

G.S. PATEL, J.

S.C. DHARMADHIKARI, J.