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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELATE JURISDICTION
CONTEMPT PETITION NO.458 OF 2004

Hariharrao Pandurangrao
Patwardhan ...Petitioner
vs.
The Chief Officer, Malgalwedha
Municipal Council, Solapur
and another ...Respondents

Mr. Siddharth S. Deshpande for the petitioner
None for the respondents

CORAM : A.S.OKA, &
A.P.BHANGALE, JJ.
DATE : MARCH 17, 2015

P.C.:

1 Heard the learned counsel for the petitioner.
The breach alleged is of the order dated 26th July
2004 passed by this Court in the Writ Petition filed
by the petitioner. The order of which breach is
alleged reads thus:

"Heard the advocates.

State Government is directed to decide
the revision application filed by the
petitioner expeditiously and in any event
within 3 months from today. Parties are
directed to appear before the revisional
authority on 9.8.2004. Ad-interim order of
status quo granted vide order dated
14.6.2004 shall continue till disposal of

the revision application and for a further period of 2 weeks from the date of its communication of the revisional order to the parties.

. Petition stands disposed of."

2 The order of status quo which was continued under the said order was passed on 23rd August 2004.

3 The allegation of breach in this petition is that after the order of status quo was passed by this Court, the Chief Officer of the Mangalwedha Municipal Council (first Contemnor) and the respondent No.2 who was the then Chief Officer started digging in Survey No.1495 and went on digging even beyond the area of the road. A letter dated 16th November 2004 was addressed by the petitioner to the respondent Nos.1 and 2 calling upon them to stop the work on C.T.S. No.27 Damaji Road. The respondent No.1 replied by a letter dated 23rd November 2004 by stating that the Writ Petition relates to the alleged C.T.S No.27-B Survey No.1495 and the said Damaji Road was not a part of the said property subject matter of the Writ Petition. In the said reply, it was contended that the petitioner had accepted the existence of the road. It is further stated that several citizens had applied to the Municipal Council for providing street lights and that it is the obligation of the Municipal Council to provide street lights considering the traffic on the Damaji Road which is a main road.

4 There is a reply filed by the respondent No.2 to this petition. In the reply, it is stated that the General Body of the Mangalwedha Municipal Council passed a resolution on 27th February 2004 for providing the street lights and road dividers on Damaji Road for the safety of the citizens of the town. In paragraph 2, it is stated that accidents have taken place as there were no road dividers. It is stated that the said road is being used by about 5000 students of a particular school. In paragraph 3, the respondent No.2-the then Chief Officer stated that a legal opinion was obtained before proceeding with the work. The legal opinion was that the work of providing street lights and road dividers does not come in the way of the order of status quo. It is stated that the tenders were invited by issuing notice and the petitioner was aware of the tenders.

5 There is an order dated 5th December 2005 passed by the learned Single Judge of this Court in the Writ Petition No.2243 of 2005 filed by the petitioner. The learned counsel for the petitioner stated that the revision application which is referred to in the order of the Division Bench was dismissed. Thereafter, the said petition was filed before the learned Single Judge. The order dated 5th December 2005 records a statement of the learned counsel for the petitioner that the petitioner will file a suit to establish his right in respect of the land bearing C.T.S.No. 27-B. The said order specifically records that the order of status quo

will not come in the way of the Municipal Council completing the work of road.

6 In any event, in terms of the resolution passed by the General Body, the Municipal Council completed the work of providing the street lights and road dividers on the existing road after obtaining legal opinion. Therefore, it cannot be said that the respondent Nos.1 and 2 have committed a wilful breach of the order of status quo.

7 The action of the respondents is a bonafide action taken in larger public interests. Therefore, in any event, no case is made out for initiating any action of contempt against the respondents. Accordingly, contempt petition is rejected. Notice is discharged.

(A.P.BHANGALE,J.)

(A.S.OKA,J.)