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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO.549 OF 2014

Shri. Narottam C. Sharma and Anr. ... Petitioners
Vs.
The State of Maharashtra and Anr. ... Respondents

Mr. V.A. Gangal i/by Mr. Anup Deshmukh, for the Petitioners.
Mr. V.S. Gokhale, AGP, for the Respondent – State.

**CORAM : A.S. OKA &
REVATI MOHITE DERE, JJ.**

DATE : 23rd JUNE, 2015

PC.

. Heard the learned counsel appearing for the Petitioners.
The breach alleged is of the order dated 17th July, 1996 passed by this Court in Writ Petition No.5779 of 1987. Rule was made absolute in the said Petition in terms of prayer clause (cc) which directs the State Government to implement the order dated 15th January, 1990 passed by the Hon'ble the Minister of the State of Forest Department of the Government of Maharashtra. Clause 2 of the order dated 15th January, 1990 holds that the lands bearing Survey Nos.53/1 and 53/2 of village - Desai, Taluka – Wada, District - Thane, were not covered by the provisions of the Maharashtra Private Forests (Acquisition) Act, 1975 as on 30th August, 1975.

2. According to the case of the Petitioners, the Deputy Conservator of Forests, Jawahar Forest Division, Jawahar, by sending a letter dated 5th June, 2013 has acted in breach of the order of the State Government dated 15th January, 1990. We have perused letter dated 5th June, 2013. The letter deals with the request made by the Petitioners for issuing a certificate to the effect that Section 35 of the Indian Forest Act, 1927 is not applicable to the said two lands. It is stated in the said letter that such a certificate cannot be issued as a notice under Sub-section (3) of Section 35 of the said Act of 1927 has been served.

3. The submission of the learned counsel appearing for the Petitioners is that by implication, the Deputy Conservator of Forests has contended that the provisions of the said Act of 1975 will be applicable to the said lands and, therefore, he has acted contrary to the orders of this Court by which the State Government was directed to enforce the order dated 15th January, 1990.

4. We have carefully perused the communication dated 5th June, 2013. An application was made by the Petitioners for grant of a certificate to the effect that Section 35 of the Indian Forest Act, 1927 is not applicable to the said lands. By the said letter, inability is expressed by the Deputy Conservator of Forests to issue such a certificate on the

ground that a notice under Sub-section (3) of Section 35 of the said Act of 1927 has been served. Thus, this letter has been issued in response to the application made by the Petitioners for grant of a certificate. To such application, a reply containing a reason for inability to issue such a certificate was issued. By no stretch of imagination, it can be said that the Deputy Conservator of Forests, Jawahar has acted contrary to the orders dated 15th January, 1990. Therefore, no case is made out to initiate action under the Contempt of Courts Act, 1971. If according to the Petitioners, what is stated in letter dated 5th June, 2015 is factually incorrect, remedies of the Petitioners are open. Subject to what is observed above, the Petition is disposed of.

(REVATI MOHITE DERE, J)

(A.S. OKA, J)