

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

CONTEMPT PETITION NO.127/2015
IN WRIT PETITION No. 3650/2014.

Bhaiyaji Narayanrao Motghare

-VERSUS-

Dr. Waman @ Amitabh Nagrale.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

CORAM : **B.P.DHARMADHIKARI**
& P.N. DESHMUKH, JJ.

DATE : **SEPTEMBER 09, 2015.**

Heard Shri S.M. Puranik, learned Counsel
for the petitioner and Shri N.D. Khamborkar, learned
Counsel for respondent.

2. Submission is, orders of this Court dated
04.08.2014 have been breached by the respondent by
continuing and completing the construction work.

3. Our attention has been invited to
photographs taken on 23.08.2014, 29.08.2014 and
07.04.2015 to show that there is change in the
structure between 23.08.2014 to 07.04.2015.

4. It is also submitted that when restraining

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orders were attempted to be served on the respondent no.4 in Writ Petition, the postal envelope has been received back with remark that it was not claimed. According to Shri Khamborkar, learned counsel appearing for the respondent is that after receipt of restraining order on 07.01.2015, no construction has been carried out.

5. This Court has passed orders and granted ad-interim relief in terms of prayer clause (c) on 04.08.2014. The envelope to which petitioner has made reference is filed as Annexure-1 with Civil Application No.3840/2014. By that application, leave to effect substitute service upon respondent no.4 was sought, pointing out that the envelope sent was received back with postal remark "not claimed". However, in paragraph no.5, leave to correct address of respondent no.4 is also sought. Perusal of postal envelope reveals that it was addressed to 'P.P. Convent School, People Foundation' without specifying any individual as addressee.

6. Perusal of the affidavits produced on record show that on 23.08.2014, construction upto slab of ground floor was already over and on

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29.08.2014, the other part of the structure again appears to have been plastered. It appears that some centering was also fixed and plastering work was going on. Photograph dated 07.04.2015 shows white-wash to the structure. The other photograph dated 07.04.2015 shows some material and paint lying inside the room.

7. In this situation, it is very difficult to accept that construction has been completed after knowledge of court orders. Respondent has in affidavit filed on 14.07.2015 stated that the construction was started in 2011 and it was discontinued after receipt of the courts order dated 04.08.2014.

8. In this view of the matter, we find that no case is made out warranting action under contempt jurisdiction. Contempt Petition is, therefore, disposed of. No costs.

JUDGE**JUDGE**

Rgd.