

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

CONTEMPT PETITION NO.212/2012
IN
APPEAL AGAINST ORDER NO.115/2006

Akhil Bhartiya Shri Gurudeo Sewa Mandal

..Versus..

Shri Vasantkumar s/o Hiralal Khandelwal and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri R.S. Kurekar, Advocate for the petitioner.
Shri M.G. Sarda, Advocate for respondents 1 to 3.
Shri S.V. Sohoni, Advocate for respondent no.4.

CORAM : Z.A. HAQ, J.

DATE : 6.1.2015

Heard Shri R.S. Kurekar, learned advocate for the petitioner,

Shri M.G. Sarda, learned advocate for respondents 1 to 3 and Shri S.V.

Sohoni, learned advocate for respondent no.4.

The petitioner has filed this contempt petition making the grievance that the respondents have wilfully disobeyed the order passed by this Court in Appeal Against Order No.115/2006 on 10th July, 2008 and the order passed by the learned Principal District Judge, Akola in Regular Civil Appeal No.31/2006 on 29th July, 2008 and, therefore, they are liable for an action under the provisions of Contempt of Courts Act, 1971.

In Appeal Against Order No.115/2006 this Court had passed an order dated 11th September, 2007 allowing the present petitioner (appellant in the appeal) to use the open space which is the subject matter of the proceedings, for health activities. While disposing of the appeal this Court by the order dated 10th July, 2008 continued the above mentioned order till the disposal of the R.C.A. No.31/2006 which was pending before the District Court.

The District Court while disposing the appeal by the judgment dated 29th July, 2008 continued the interim order passed by this Court on 11th September, 2007 till the disposal of the civil suit pending before

the trial Court. The grievance of the petitioner is that the respondents have erected fencing around the open plot and have removed the board affixed by the petitioner on the open plot which amounts to willful disobedience of the order passed by this Court. The submissions made by the petitioner are not only vague but it is not demonstrated that there was any disobedience leave apart willful disobedience, on the part of the respondents.

Shri Sarda, learned advocate submits that the respondents have not restrained the petitioner from undertaking the activities as permitted by this Court by the order dated 11th September, 2007. There is no averment in the petition that the respondents are not permitting the petitioner to undertake the activities as permitted by this Court by the order referred above.

I do not find any reason to invoke the jurisdiction under the Contempt of Courts Act. The contempt petition is, therefore, dismissed with costs quantified at Rs.4,000/-, out of which Rs.2,000/- shall be paid to the respondents 1 to 3 jointly and Rs.2,000/- to the respondent

no.4. The receipt showing the payment shall be filed on the record of the Regular Civil Suit No.207/2001 till 31st January, 2015, failing which the learned trial Judge shall pass appropriate orders in the matter.

JUDGE

Tambaskar.