

IN THE HIGH COURT OF BOMBAY AT GOA

CONTEMPT PETITION NO. 11 OF 2016

IN

WRIT PETITION NO. 35 OF 2015

MRS. JAYASHRI N. RAJEBHOSALE @
BIMABAI RAUJI RANE THROUGH HER
P.O.A. PETITIONER NO.2 AND ANR.,

... Petitioners

Versus

SHRI. SHRIKANT B. PEDNEKAR AND 2
ORS.,

... Respondents

Mr. Prasheen Lotlikar, Advocate for the Petitioners.
Mr. Deepak Gaonkar, Advocate for the Respondent no. 2.

Coram:- F. M. REIS &
NUTAN D. SARDESSAI, JJ.

Date:- 15th June, 2016

P.C.

Heard Shri Prasheen Lotlikar, learned Counsel appearing for the Petitioners and Mr. Gaonkar, learned Counsel appearing for the Respondent no. 2.

2. This is an application for contempt filed by the Petitioners on the premise that the Respondent no. 2 is not complying with the directions issued by this Court to implement the order to demolish a construction put up in the property surveyed under no.99/0 of Maulinguem (N).

3. It is pointed out by the learned Counsel for the Respondent no. 2

that the demolition was fixed on 04.03.2016 and that on the very same day, the brother of the contemptner no. 3, pasted a notice on the subject structure to the effect that a dispute is under consideration before the learned Civil Judge, Senior Division at Bicholim in respect of such structure. Learned Counsel has brought to our notice that on 07.03.2016, a temporary injunction came to be granted by the learned Judge, inter alia, restraining the Respondent no. 2 from carrying out the demolition of such structure.

4. Shri Lotlikar, learned Counsel appearing for the Petitioners, states that the subject structure to be demolished is located in the property surveyed under no. 99/0 whereas the injunction Order granted by the learned Judge is pertaining to the structure located in the property surveyed under no. 80/0 of the same Village. Learned Counsel as such pointed out that there is no legal impediment for the Respondent no. 2 to proceed with the demolition of the structures.

5. When the matter was taken up for hearing yesterday, it was pointed out by learned Counsel appearing for the Respondent no. 2 that an Order passed by the learned Civil Judge, Senior Division at Bicholim, was challenged by the Petitioners before this Court by filing a Writ Petition. As there was a controversy as to whether there was any reference made to the subject structure to be demolished in the Petition filed by the Petitioners, we called upon the learned Counsel appearing for the Petitioners, to produce a copy of such

Petition today. But, however, the learned Counsel appearing for the Petitioners chose not to file the copy of such Petition on the premise that the copy which was available with him had markings. However, the learned Counsel appearing for the Respondent no. 2 has produced a copy of such Writ Petition and, in fact, on going through the averments there at Para 10, there is a specific averment therein that the subject matter of demolition ordered is located in the property surveyed under no. 99/0 which is erroneously sought to be shown to be located in the property surveyed under no. 90/0 of Village Maulinguem. The adjudication with regard to such averment would have to be carried out by the concerned Court in accordance with law.

6. On perusal of the above Contempt Petition, we find that there is no averment with that regard in the said Petition. This itself discloses that the Petitioners have approached this Court without disclosing the fact that an interim Order is in operation. In any event, contempt is a matter between the Court and the Contemptner. In the present case, as there is an interim Order passed by the learned Civil Judge, Senior Division at Bicholim, judicial propriety would demand that until the Order is in operation or clarified, the Respondent no. 2 would have to await the outcome of such proceedings before the Court. Needless to state that immediately after the injunction Order ceases to be in operation, the Respondent no. 2 shall proceed to comply with the directions of this Court and file a compliance report thereof.

7. Contempt Petition stands disposed of accordingly.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.

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