

**IN THE HIGH COURT OF BOMBAY AT GOA.**  
**CONTEMPT PETITION (MAIN) NO. 16 OF 2015.**

SHRI GAJANAN FONDU MAYEKAR,  
S/o of late Fondu Krishna Mayekar,  
Major, resident of House No.219,  
Goa-Velha, Ilhas-Goa.

.... Petitioner

Versus

SHRI DAMODAR DATTA ZUARKAR  
Major, resident of D-104,  
"House of Lords" near "Marriot Hotel"  
at Miramar, Panaji-Goa AND 3  
ORS.,

... Respondents

Adv. Padgaonkar Chaitanya Prakash for the Petitioner.  
Adv. Ashwin D. Bhobe for Respondent nos. 1 To 3.  
Adv. M. Amonkar for Respondent no.4.

**Coram:- C. V. BHADANG, J.**  
**Date:- 29th March, 2016.**

**ORAL ORDER:**

By this petition, the petitioner is seeking an action for contempt of the Court and breach of the order of status quo passed by the learned Mamlatdar, Panaji, in Case no. MAM/TNC/Misc./Goa Velha/3-A/2005.

2. The brief facts are that the petitioner claims to be the successor of a tenant in land survey no.87/1 of village Goa Velha. Apprehending dispossession, the petitioner had initiated proceedings before the learned Mamlatdar under section 8A r/w section 12 of the Goa, Daman and Diu Agricultural Tenancy Act 1964 (the Tenancy Act, for short). The petitioner had also prayed for an interim order of protection. It appears

that by order dated 11/8/2005, the learned Mamlatdar had directed the parties to maintain status quo till the next date of hearing. A perusal of the order sheet shows that by an order dated 30/9/2005, the status quo order was extended until further orders till 25/10/2007 when the order of ex parte status quo was vacated. Feeling aggrieved, the petitioner challenged the same before the learned Dy. Collector in Revision bearing No.TNC/DYCL/REV/01/2008. That revision was decided by the learned Dy. Collector on 27/7/2010 and while setting aside the impugned order dated 25/10/2007, the matter was remanded to the learned Mamlatdar for deciding the same, afresh. The learned Mamlatdar has not passed any interim order thereafter. Indisputably, the application before the Mamlatdar is still pending. The learned counsel for the petitioner submits that the order dated 27/7/2010 passed by the Dy. Collector & S.D.O., Panaji, was challenged by the respondents before the Administrative Tribunal and the said challenge is also pending. Be that as it may, the contention is that by the order dated 27/7/2010, the Dy. Collector had restored the order of status quo passed by the learned Mamlatdar. The contention is that in breach of the said order, the respondents fell certain trees in the subject land on 4/12/2014, which is an act in the nature of contempt. It is in these circumstances that the present petition came to be filed on 21/4/2015. The learned counsel for the petitioner submits that the petition having been filed within one year of the act of breach/contempt is within limitation.

3. It is submitted by the learned counsel for the respondents that the learned Mamlatdar had vacated the stay on 25/10/2007. The learned counsel submits that the order dated 27/7/2010 does not show that the order of status quo granted by the Mamlatdar was restored. The allegation about cutting of the trees and that too in the breach of any order of status quo, has also been denied.

4. I have considered the rival circumstances and the submissions made. The record clearly shows that the order of ex parte status quo granted on 11/8/2005 was extended, by order dated 13/9/2005 until further orders. The record further discloses that the learned Mamlatdar had vacated the order of ex parte status quo on 25/10/2007, which was challenged before the Dy. Collector. A careful perusal of the judgment and order dated 27/7/2010 passed by the Dy. Collector nowhere shows that, the order of status quo was restored. It would be worthwhile to reproduce the part of the judgment and order passed by the Dy. Collector as under:

"In the present case in hand, the Mamlatdar has failed to consider the settled principal of law and as held by our Hon'ble Court the matter of *Epitacao Paes* (supra), this case is fit to remand back to the lower court with direction that he shall deal with the matter afresh and after giving hearing to parties and after considering principles of grant or refusal

of temporary injunction. I make it clear that I have not expressed any opinion in merit of case. All the contents of both the sides are kept open.

**Order**

The impugned order is quashed and set aside and considering this matter is pending since 2005, the Mamlatdar shall dispose the stay application within 2 months from the appearance of the parties."

5. It can thus be seen that the Dy. Collector had remanded the matter to the Mamlatdar. The operative part of the order also does not show that the order of status quo was either granted or restored. This Court can take action for contempt only when the facts are clear, which indicate that there was an intentional and willful breach of the order passed by the competent court. It is trite that the matter of contempt is essentially between the contemnor and the Court. In the absence of an order of status quo or of a willful and intentional violation of the same, no case of contempt is made out. In the result the petition is dismissed. It is made clear that this Court has not expressed any opinion on the merits of the controversy pending before the Mamlatdar and the rival contentions in that regard are left open.

C. V. BHADANG, J.

AP/-