

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO.75 OF 2015
IN
WRIT PETITION NO.2206 OF 2012**

Shri Pratap Narayan Mourya and ors.

....Petitioners

versus

The State of Maharashtra through its
Principal Secretary, Mantralaya, Mumbai &
ors.

...Respondents

Mr. Vasant D. Raut, advocate for the petitioners.

Mr. V. M. Mali, AGP for respondent No.1.

Mr. S. P. Thorat, advocate for respondent No.2.

**CORAM : RANJIT MORE &
ANUJA PRABHUDESSAI, JJ.**

DATE : 20th JUNE, 2016.

P. C. :

Heard learned counsel and learned AGP appearing for the
respective parties.

2. The grievance of the petitioners is that the statement made by
respondent Nos. 3 to 5 in paragraphs 2 and 3 of their affidavit filed in
writ petition No. 2206 of 2012 is not complied with and, therefore, they
are constrained to file the present contempt petition. A copy of the
affidavit filed on behalf of respondent Nos. 3 to 5 in writ petition

No.2206 of 2012 is annexed at "Exhibit B", page 61. Paragraphs 2 and 3 of the said affidavit reads as follows:

"2. At the outset the present Petition filed by the Petitioners and the reliefs sought in this Petition cannot be entertained mainly on the ground that the reliefs sought by the Petitioners in the present Petition are not at all in consonance with the present position in respect of the modification of reducing the width of the road in the sanctioned Development Plan. As a matter of fact the earlier proposal to modify the road in the sanctioned Development Plan from 30 mtrs to 24 mtrs. width at Gat no.769 to 714 situated at Village Kudalwad-Chikhali, Tal. Haveli, Pune is not at all existence because as per the proposed modification of sanctioned Development Plan the width of the 24 mtrs is proposed for 30 mtrs. in the said Gat No. And therefore the averment made by the Petitioners that the Pimpri Chinchwad Municipal Corporation is reducing the proposed road from 30 mtrs to 24 mtrs is not at all correct. Under the said circumstances the public notice published on 19th November 2009 in the Government Official Gazzete in respect of the modification u/s 37 of the M.R.T.P. Act in respect to modified the 30 mtrs. width of the proposed road in the Development Plan at Gat No.769 to 714 up to 24 mtrs. will not be implemented.

3. I say that whatever the procedure is required to be followed under the Maharashtra Regional and Town Planning Act 1966 is already followed while sanctioning the final Development Plan. No doubt

initially it was proposed that the width of the proposed road in final Development Plan at Gat No.769 to 714 was to be modified upto 24 mtrs. width and the said proposal also was to be submitted to the State Government. However the said proposal is not at all submitted to the State Government in order to get sanction.

The Planning Authority subsequently realized the practical difficult in reducing the 30mtrs. width to 24 mtrs.width of road because near the said location of the road there is a proposed construction of over bridge at Spine Road and Kudalwadi Road Junction. The Planning Authority found that in order to construct the over bridge, the said road of 24 mtrs. would be very narrow and small area for the road and therefore it is decided by the Planning Authority that instead of 24 mtrs 30 mtrs width road is required to be constructed. The said 30 mtrs width road would be sufficient in order to accommodate two service roads. The said service roads would be constructed from the both sides of the over bridge. And therefore in future within a period of two years the said road of 30 mtrs will be completed. The length of the said road would be about 1 km and for that purpose the Pimpri Chinchwad Municipal Corporation and particularly the Planning Authority are applying all the due process of law."

A plain reading of the averments made in paragraphs 2 and 3 makes it clear that the width of the road in between gat No.769 to 714 in sanctioned Development Plan was 30 meters, and it was proposed to

be reduced to 24 meters. In paragraph 2, an averment is made that the proposal to reduce the width of the road would not be implemented. In paragraph 3 of the said affidavit, a statement was made to construct a 30 meters width road from 24 meters width road at the location of the proposed construction of over-bridge at Spine Road and Kudalwadi Road Junction.

3. On behalf of the said respondents, an affidavit-in-reply is filed in this contempt petition by one Mr. Prakash R. Thakur. In paragraph 5, the following averment is made :

"5. I say that pursuant to the averment and statements made in paragraph no.2 and 3 of the Affidavit dated 30th April, 2012, the Pimpri Chinchwad Municipal Corporation, it shows that the said Municipal Corporation had made averment in respect of the service road, which would be about 1 k.m. in length. Therefore the statement in paragraph no.3 is required to be perused keenly by the Petitioners and same is as under:

"the length of the said road would be about 1 km and for that purpose the PCMC and particularly the Planning Authority are applying all the due process of law"

Accordingly the Respondent nos. 2 to 4 have applied all the procedural law u/s.37 of the Maharashtra Regional Town Planning Act 1966. I say that the

process for the said 30 meter of road is under progress for widening."

4. In the light of the above statements, we do not find any breach of the statement as alleged by the petitioners much less willful disobedience. The contempt petition is devoid on any merit and the same is, accordingly, dismissed.

(ANUJA PRABHUDESSAI, J.)

[RANJIT MORE, J.]