

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION (ST) NO.1492 OF 2016

IN

CIVIL WRIT PETITION NO.9072 OF 2015

...

Mr.Rajesh Chhaganlal Patwa	...Petitioner
v/s.	
The State of Maharashtra and ors.	...Respondents
And	
Mrs.Vaishali Suresh Lumbhate	...Contemnor

...

Mr.Rajesh Singh for the Petitioner.
 Mr.P.G.Sawant, AGP for the Respondents Nos. 1 & 2.

...

CORAM : A.S.OKA &
A.A. SAYED, JJ.

DATED : 19 OCTOBER 2016

P.C.:

Heard the learned Counsel appearing for the Petitioner. The contemnor is personally present in the Court, who has filed an Affidavit. The breach alleged is of the order dated 9 September 2015 passed in Writ Petition No.9072 of 2015 filed by the present Petitioner. The proceedings under section 84(C) of the Bombay Tenancy and Agricultural Lands Act, 1948 (for short 'the said Act of 1948') was pending before the Tahsildar, Bhiwandi, of which a show cause notice was issued to the Petitioner. By ad-interim order dated 9 September 2015, of which the breach is alleged, this Court permitted proceeding on the basis of show cause notice to continue. However, it was observed that if the order passed was adverse to the

Petitioner, the same shall not be implemented till the next date. On 13 October 2015, when the matter was listed before a Division Bench, the same did not reach and the ad-interim order dated 9 September 2015 was continued. On 10 December 2015, the Contemnor passed an order of resumption under section 84(C) of the said Act of 1948. The breach alleged is that contrary to the ad-interim order of this Court, on 14 December 2015, an effect was given to the order of the Contemnor by making a mutation entry.

2. In the Affidavit-in-Reply, the Contemnor has stated that she was not aware that ad-interim order of this Court dated 9 September 2015 was extended. She has stated that only after receipt of a notice of this Petition that she became aware of the order of this Court passed on 13 October 2015, by which order dated 9 September 2015 was extended.

3. There is nothing placed on record to show that the order of extension passed on 13 October 2015 was communicated to the Contemnor. The Contemnor would have been well advised to seek instructions from the office of the Government Pleader before allowing her order to be acted upon. Nevertheless, in the light of the statements made in the Affidavit and in particular paragraphs 11 and 12, it is not possible to

come to a conclusion that there is any willful breach or disobedience of the order of this Court on the part of the Contemnor. By accepting the statements made in the Affidavit, the Contempt Notice is discharged. The Contempt Petition is disposed of.

(A.A. SAYED, J.)

(A.S.OKA, J.)