

by his order dated 31.12.2012 directed Sarpanch, Gram Panchayat, Pimpali to comply the said order immediately. He submits that recently, the learned Tahsildar by his letter dated 22.03.2016 directed Respondents to provide the road as per map annexed in Case No. 1 of 2011. As the respondents failed and neglected to comply the said order, they preferred Contempt Petition against them. He submits that in spite of several directions given by Tahsildar, as the Respondents failed and neglected to comply the Order dated 18.04.2011 in Case No. 1 of 2011, this Hon'ble Court be pleased to take action against them as per provision of Contempt of Court Act.

4 On the other hand, the learned Counsel Mr. A.S. Kulkarni appearing on behalf of Respondent No.7 submits that petitioner with malafide intention filed the present Contempt Petition against him. He submits that at present Respondent No.7 is not Sarpanch of Gram Panchayat, Pimpali Khurd. He submits that Respondent No.7 filed his affidavit-in-reply dated 16.07.2014. He submits that pursuant to the Order passed by the SDO dated 18.04.2011 and the letter issued by the Tahsildar, the Gram Panchayat called Gram Sabha and passed resolution for complying the order passed by the SDO dated 18.04.2011 and provided road. He submits that Gram Panchayat also made appropriate noting in their Register bearing Form No. 26. He submits that in this way, Gram Panchayat already complied the order passed by the SDO in Case No. 1 of 2011. Hence, there is no substance in the present Contempt Petition and same is required to be dismissed.

5 The learned Counsel Mr. Sachin Punde appearing on behalf of Respondent Nos. 3, 4 and 6 submits that the order passed by the SDO

in Case No. 1 of 2011 is already complied. In support of his contention, he relies on letter dated 29.11.2012 written by Gram Panchayat, Pimpli to the learned Tahsildar, Chiplun. He also relies on resolution passed in Special Meeting of Gram Panchayat dated 26.11.2012 and the map annexed to that. He submits that letter from the Gram Panchayat as well as resolution dated 26.11.2012 and the map annexed to that, shows that they already complied the impugned order passed by the learned SDO.

6 The learned Counsel for the Respondent Nos. 3, 4 & 6 submits that the Contempt Petition as it is filed by the Petitioner, itself is not maintainable in law. He submits that as per Section 21 of Mamledar Court Act, 1906, the alternate remedy is available to the petitioner. He submits that without exhausting alternate remedy as available under Section 21 of the Mamledar Act, Petitioner filed the present Petition and therefore, same is required to be dismissed. He further submits that apart from the present Contempt Petition, the Petitioner filed Writ Petition No. 1502 of 2014 on 05.12.2014 for same cause of action. He relies on prayer clauses in the said Writ Petition No. 1502 of 2014, which reads thus:

“a) That this Hon'ble Court may be pleased to call for record and proceedings in respect of case no. 1 of 2011 before the Learned Tahasildar, Chiplun.

b) That this Hon'ble Court may be pleased to issue writ of certiorari and may be pleased to direct either Respondent No.7 or Respondent No.9 or Gramsevak to execute order dated 18.04.2011 properly with the help of police if require;”

7 The learned Counsel for the Respondent Nos. 3, 4 & 6 submits that two parallel proceedings are not permitted for the same cause of

action. Hence, there is no substance in the Contempt Petition and same to be dismissed with Costs.

8 I heard both the sides at length. It is to be noted that in the present proceeding, the dispute is whether the Respondents complied the order dated 18.04.2011 passed by the learned SDO in Case No. 1 of 2011 or not. On the basis of affidavit-in-reply filed by the ex-sarpanch, letter dated 08.11.2012 addressed to the Tahsildar by Shri. Subhash Patangrao Shinde, Smt. Ranjana Subhash Shinde, Smt. Savita Balvant Patil, Smt. Priya Pradipkumar Pawar, Shri. Yashwant Narayan Sawant, Shri. Ramchandra Abaso Bhosale and letters of Gram Panchayat issued to the Tahsildar as well as resolution passed by them, prima facie shows that they complied the order passed by learned SDO. Apart from that the alternate remedy is available to the Petitioner under Section 21 of the Mamledar Court Act, 1926. The Petitioner also filed Writ Petition No. 1502 of 2014 for same cause of action i.e. for direction to Gram Panchayat to execute the impugned order dated 18.04.2011. I am of the opinion that when the alternate remedy is available to the petitioner, the Contempt Petition is not maintainable.

9 The Apex Court in the matter of *Kanwar Singh Saini Vs. High Court of Delhi (2012) 4 SCC 307* held that if an alternate remedy is available, normally the court should not entertain the contempt petitions.

10 On the basis of above mentioned facts and the law declared by the Apex Court, I do not find any substance in the present Contempt

Petition.

11 Hence, following order is passed:

- a) Contempt Petition stands rejected.
- b) The observations made by this Court should not come in the way of petitioner to proceed with the Writ Petition No. 1504 of 2014 and other proceeding.

(K.K.TATED, J.)