

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION*

CONTEMPT PETITION NO. 432 OF 2016

Mr.Prakash Jagannath Sarode & ors. .. Petitioners

Vs

Smt.Yamini Joshi

The Divisional Controller

Maharashtra State Road

Transport Corporation, Nashik & anr. .. Respondents

Mr.Sachin Gite, for Petitioners.

Mr.G.S.Hegde a/w Mr.C.M.Lokesh, for Respondents.

***CORAM : N.M.Jamdar, J.
Thursday, 27 October 2016.***

Oral Order :

The Contempt Petition arises from common order passed in Writ Petition No.11775 of 2016, Writ Petition No.11776 of 2016, Writ Petition (St.) No.27740 of 2016, Civil Application No.2663 of 2016, Writ Petition (St.) No.27745 of 2016, Writ Petition (St.) No.28434 of 2016. These Writ petitions have been rejected today by a separate order passed holding that the Petitioners have no rights whatsoever in the premises.

2. It is the case of the Petitioners that inspite of the order passed on 10 October 2016, the Respondent-Corporation have carried out the demolition. It is the contention of the Respondents that inspite

of the caveat filed when the order was passed on 10 October 2016 no notice was given and the demolition was already carried out on 14 October 2016.

3. The issue therefore, arises is at exactly what point of time the demolition was carried out and when was the communication sent. It is primary requirement that before moving for or seeking an interim order, the Petitioners have to give notice to the Caveator so as the situation such as the present one can be avoided. Admittedly, no notice was given to the Caveator and therefore knowledge of the order passed cannot be attributed to the Caveator. That being the position and the nature of the contempt proceedings being such where an order can result in taking punitive action, benefit of doubt will have to be given to the Respondent-Corporation that when the action was carried out communication regarding the order was not received. Therefore, since the two equal factual versions are possible and the fact that before moving the matter no notice was given to the Caveator, I do not find that case is made out of proceeding against the Respondents under Contempt of Courts Act, 1971. The Contempt Petition is accordingly dismissed.

(N.M.Jamdar, J.)