

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CONTEMPT PETITION NO.214 /2016

(Smt. Nanhibai w/o Namdeoprasad Yadav and others vs. Shri Sachin Kurve, District Collector, Nagpur and others)

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Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

.....
Mr. P.A. Abhyankar, Advocate for the petitioners

CORAM : SMT. VASANTI A.NAIK &
MRS.SWAPNA JOSHI, JJ.

DATED : 5th July, 2016

Heard.

By this Contempt Petition, the petitioners seeks action against the respondents for wilful disobedience of the order dated 15.02.2016 in Writ Petition No. 547/2016.

The petitioners had filed a Civil Suit for declaration and permanent injunction. A prayer for temporary injunction was also made. The trial Court, by the order dated 9th September, 2014, directed the parties to maintain *status quo* till the returnable date. The Writ Petition was filed by the petitioners and some others, stating therein that despite the continuation of the order of injunction/*status quo*, the authorities were proceeding to remove the encroachment made by the petitioners. This Court disposed of the Writ Petition by observing thus :

“ We make it clear that if there is an order of competent Civil Court, the same shall be respected by the Authorities and by the State, and if there is any injunction /status quo operating against the State, they shall not proceed further with removal of the construction. However, it is made clear that if there is no such order in respect of any of the premises, the respondents will be at liberty to remove such construction.”

It is not in dispute that the plaint filed by the petitioners had been rejected on 11.02.2016 and the order of *status quo* was also vacated on 16.12.2016. It is the case of the petitioners that despite the existence of the order of *status quo*, the respondents had started demolishing the construction that was made by the petitioners. It is stated that the structures erected by the petitioners, were demolished on 16.02.2016 and the undertaking-statement in paragraph no.12 of the affidavit was breached.

We are not inclined to initiate any action against the respondents in this petition. Firstly, no direction whatsoever is issued by this Court in the order dated 15.02.2016 in Writ Petition No. 547/2016. This Court has merely observed while

disposing of the Writ Petition filed by the petitioners that if at all there is an injunction/*status quo* operating against the State, they shall not proceed further for the removal of construction. It is, however, made clear in the said order itself that if there is no such order in respect of any of the premises, the respondents would be at liberty to remove such construction. We find that the order of *status quo* was vacated on 16.02.2016. If the petitioners are of the view that the order of the trial Court granting *status quo* is breached, the petitioners may avail the remedy under Order XXXIX Rule 2A of the Civil Procedure Code, if permissible.

In the circumstances of the case, we are not inclined to entertain the Contempt Petition. The Contempt Petition is dismissed, with no order as to costs.

JUDGE

JUDGE

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