

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CONTEMPT PETITION NO.342 OF 2016
IN WRIT PETITION NO.1198 OF 2015
(Kedarnath Gangadharji Agrawal vs. Shri Ajay Lahane and others)

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

Shri S.V. Bhutada, Advocate and Shri Y.J. Maheshwari,
Advocate for the petitioner.

CORAM : SMT. VASANTI A NAIK AND
KUM. INDIRA JAIN, JJ.

DATED : OCTOBER 17, 2016

By this contempt petition, the petitioner seeks action against the respondents for willful disobedience of the directions in the order dated 15/6/2016 in Writ Petition No. 1198/2015.

According to the petitioner, though the suit filed by the petitioner against the concerned parties, who have illegally constructed a temple on the property belonging to the petitioner and the suit filed by the concerned party against the petitioner are withdrawn, the respondents are not taking any action for removal of the unauthorised construction by the concerned persons.

On a reading of the order, of which the contempt is alleged, we do not find that any action under the Contempt of Courts Act could be initiated against the respondents for not proceeding in the matter expeditiously as this Court had directed the respondents to proceed in the matter, if there is no other legal

impediment in doing so. Merely because it is the case of the petitioner that there is no other legal impediment in proceeding further with the matter, proceedings cannot be initiated against the respondents under the provisions of the Contempt of Courts Act. We find that the dispute between the petitioner and the concerned persons, who are not joined as parties to either writ petition or this contempt petition is personal and private as it is the case of the petitioner that the concerned persons have made illegal construction on the petitioner's land. If that is the case of the petitioner, the petitioner can file appropriate proceedings in the Civil Court for taking action against the concerned persons, if permissible in law. The petitioner, however, cannot seek action against the respondents for not taking action against the concerned persons as the direction issued against the respondents in the writ petition is conditional and subject to the fact that there is no impediment in the way of the respondents in taking action.

In view of the aforesaid, we dispose of the contempt petition with no order as to costs.

JUDGE

JUDGE

khj