

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****CONTEMPT PETITION NO.32 OF 2017**

M/s.Chinchwad Devasthan Trust
A Public religious Trust, regd at
PTR No.A-591/Pune, Through
POA holder Apex Property
Consultants LLP having regd
address at 1, Adams Court, Opp
Hotel Mahabaleshwar, Baner Road
Pune – 411 045

.. Petitioner

Versus

1) Pimpri Chinchwad Municipal
Corporation Through Commissioner
PCMC Office, Mumbai Pune Road,
Pimpri Road, Pune 411018.

2) The Collector, Pimpri Chinchwad
having its office at Collector Office,
Pune 411001.

3) The Divisional Commissioner
Land Acquisition Department
having its office at Divisional
Commissioner, Vidhan Bhavan
Compound, Pune 411001.

.. Respondents

...

Mr.Tejas Deshpande for the petitioner.

Mr.P.G. Sawant, AGP for the State.

Mr.A.V.Anturkar, Sr. Advocate with Mr. Sandeep Marne for
respondent no.1.

Tilak

**CORAM: DR. MANJULA CHELLUR, CJ.
& N.M. JAMDAR, J.**

RESERVED ON: 2nd AUGUST, 2017

PRONOUNCED ON: 12th OCTOBER, 2017

JUDGMENT (Per Dr.MANJULA CHELLUR, CJ):

1 This petition is filed by the petitioner – complainant Trust seeking action against the respondent officials for not complying with the order dated 2nd May 2015. It is necessary to bring on record certain EVENTS WHICH occurred after passing of the above said order, which led to filing of the present Contempt Petition.

2 Land admeasuring about 1,05,400 sq.m situated at Bhosari within the jurisdiction of the Pimpri Chinchwad Municipal Corporation belongs to the petitioner Trust. In the year 1997 by an agreement dated 8th July 1997, petitioner trust handed over the above land to the possession of respondent no.1. Inspite of proceedings under Land

Acquisition Act being initiated, the respondent no.1 failed to pass award or grant compensation or TDR in respect of the above said land. Therefore, petitioner trust filed Writ Petition No.7494 of 2013 wherein the Division Bench ultimately held that within two years of time, the fourth respondent Pimpri Chinchwad Municipal Corporation therein has to take recourse to the proceedings of compulsory acquisition under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short "2013 Act"). In spite of persistent follow-up by the contempt petitioner seeking computation of compensation in terms of new Enactment or to grant TDR in lieu of compensation, first respondent failed to complete the Land Acquisition proceedings under 2013 Act nor restored back possession of the land to the petitioner Trust nor offered TDR to the Trust.

3 On 3rd August 2016, when petitioner Trust again addressed a letter to the respondent no.1 seeking compliance of directions of the order dated 2nd May 2014, respondent

applied for extension of three months time on the ground that award is almost ready. However, the respondent no.1 failed to comply with the said undertaking of completing the award process nor paying compensation nor offering TDR nor restoring back possession of the land. Therefore, the present Contempt Petition came to be filed.

4 According to first respondent, contempt petition is bad for non-joinder of necessary party, and so also joining parties who are not required to be impleaded. It is brought on record by the first respondent that on or before 2nd May 2016, they had to complete the acquisition proceedings within two years. However, same came to be extended upto 31st December 2016. Within this time, the first respondent had to restore the land to the petitioner. On 10th January 2017, a contempt was filed complaining non-compliance of order by handing over back the possession of the land to the petitioner. They rely upon Rule 21 of Chapter XVII of Bombay High Court Appellate Side Rules, 1960, and contend that contempt proceedings cannot be alternative proceedings for

execution of orders. Civil Application St.No.634 of 2017 came to be filed on 9th January 2017 by the State Government wherein extension of time for compliance is sought.

5 The total land owned by the petitioner which was handed over to the first respondent is about 1,05,400 sq.m. Out of this, 56,864.70 sq.m is coming under reservation as per the Development Plan (DP) of first respondent. 26,500.30 sq.m is covered by water of natural lake. Therefore, it is under the ownership of the Government. Portion of unreserved land which is in possession of first respondent Corporation is only 22,035 sq.m.

6 So far as first respondent is concerned, they requested Special Land Acquisition Officer (SLAO) concerned to seek extension of time by six months in order to enable Corporation to seek approval of the General Body and Standing Committee of the Corporation for deposit of the amount directed by Divisional Commissioner, Pune on 28th December 2016. Decision to deposit compensation of

Rs.45,05,24,387/- in respect of 56,864.70 sq.m which is a reserved land, was made. On 24th January 2017, a cheque for the above said amount is submitted to the Special Land Acquisition Officer. Final award came to be passed on 25th January 2017 so far as the above measurement is concerned. Therefore, this part of the judgment dated 2nd May 2014 is completed by acquiring the land.

7 In respect of this land admeasuring 56,000 sq.m and odd, final notification was issued on 18th May 2009 and so far as 22,035 sq.m non development land on 10th June 2010, final notification under Section 6 was issued.

8 The amount of compensation determined as per the award in respect of DP land was Rs.19.52 crores, and non-DP land was Rs.4,47,29,752/-. Special Land Acquisition Officer had to complete the acquisition proceedings in respect of non-DP land and publish the final award within 2 years. Proceedings were delayed for reasons not known to the Corporation, is the contention. However, on 28th May 2012 when Municipal

Corporation was directed to deposit Rs. 4 crores and odd in respect of non-DP land when the draft awards were sent to the office of Divisional Commissioner, Divisional Commissioner, Pune raised few queries in respect of the draft awards by letter dated 7th July 2012 opining that the award had to be published in respect of non DP-land on or before 14th June 2012 and Divisional Commissioner was not given enough time for scrutiny of the said award by expressing displeasure about the delay in sending the draft award. The correspondence between SLAO and the Divisional Commissioner took some time. However, SLAO did not communicate anything to Municipal Corporation about lapsing of the acquisition proceedings. In the joint meeting of first respondent, Collector, Deputy Director of Town Planning, Superintendent of Land Records, a decision was taken on 10th July 2012 that the entire land claimed by the petitioner actually belongs to the Government and therefore, directed the proposal to be sent to the Divisional Commissioner, Pune, seeking advise so as to record the name of the Government in respect of the entire land. Therefore,

the Corporation – first respondent filed Appeal before the Superintendent of Land Records challenging the mutation entry recording the name of the petitioner in the record of rights so far the entire land. The same came to be dismissed by Superintendent of Land Records on 8th December 2014. Thereafter, Municipal Corporation filed Appeal against the order of the Superintendent of Land Records before Dy. Director of land Records, and the same was pending when the judgment came to be passed by this Court on 2nd May 2014 directing completion of proceedings within two years. Thereafter, on 24th September 2014, first respondent requested SLAO to initiate and complete the process, again reminded the Collector, Pune on 15th November 2014 for issuance of necessary directions for completion of the land acquisition proceedings. Special Land Acquisition Officer on 28th November 2014 sought clarifications with regard to the acquisition proceedings from the Collector, Pune in respect of both DP land and non-DP land. In so far as non-DP land, the Land Acquisition Officer informed that the draft award was forwarded for approval on 17th November 2011 in which the

compensation amount was determined as Rs.4,31,82,708/-. By letter dated 11th December 2016, SLAO informed the first respondent that approximate amount is Rs.19.52 crores and requested to deposit the same. On 18th December 2014, a letter was sent to the Dy. Director, Town Planning of 1st respondent informing for the first time that acquisition proceedings has lapsed for not passing final award on or before 14th June 2012. On 18th December 2014, a letter was written by SLAO pointing out that Municipal Corporation should submit a fresh proposal in accordance with the provisions of 2013 Act. In the mean while, one Pratik Choradia claiming be the Power of Attorney holder of petitioner submitted a letter on 7th February 2015 misrepresenting the Municipal Corporation that compensation of Rs.250 crores would be payable in the event of acquisition of entire land, and raised a query as to whether there was a budgetary provision for payment of compensation, or whether Municipal Corporation would grant TDR. Since the acquisition proceedings lapsed in respect of non-DP land, a guidance was sought from Principal

Secretary, Urban Development by letter dated 15th April 2015 whether Municipal Corporation should deposit the amount of compensation, or whether TDR should be granted. No reply came to be received. In the mean time, Municipal Corporation filed Appeal, as stated above, when they learnt that the entire land was owned by the State Government. Period of two years granted by the High Court came to an end on 2nd May 2016. Civil Application No.1592 of 2016 came to be filed by the State, and the same came to be allowed extending time upto 31st December 2016. Only on 18th December 2013, SLAO informed the Corporation that acquisition proceedings in respect of non-DP land lapsed so far as 22,035 sq.m and the balance land was covered by water, and the ownership of the said area would be that of State Government in terms of Section 20 of the Maharashtra Land Revenue Code. Municipal Corporation was under a bonafide belief that acquisition proceedings were still in force when they sought guidance from Principal Secretary, Urban Development on 15th April 2015. The State Government took a stand that entire land admeasuring 1,05,400 sq.m falls in

the ownership of the State Government. Under these circumstances, Corporation was not sure about the further course of action i.e. in which direction they ought to have proceeded.

9 By judgment dated 2nd May 2014, it was observed that Writ Petition was disposed of by granting time of two years to the Municipal Corporation to complete the acquisition. This created an impression that the first respondent was required to ensure that the Land Acquisition proceedings already initiated in respect of both DP and non-DP should be completed within two years. This is clear from the letter dated 24th January 2017 where the Municipal Corporation requested the SLAO to complete the acquisition proceedings in respect of non-DP land. The State Government has taken a stand that entire land is owned by the State Government and necessary directions were issued for correction of mutation entry. Therefore, Corporation was proceeding in the direction of getting mutation entry in the name of the petitioner corrected by filing proceedings before

the Sub-Divisional Officer. The State Government has filed affidavit in reply before the Dy. Director Land Records on 24th January 2017 that the entire land is owned by the State Government, and the name of the petitioner has been erroneously noted by order dated 16th July 2008.

10 In the above circumstances, Corporation was under a bonafide belief that acquisition proceeding was still under the process, and could be completed by publication of final award. Now, it is clear that the land acquisition proceeding in respect of non-DP land have lapsed and that the Municipal Corporation is required to submit a fresh proposal for initiation of proceedings and the proposal is sent on 10th April 2017 for acquisition of entire non-DP land admeasuring 48,535.30 sq.m.

11 As a matter of fact, according to first respondent, the entire land claimed by the petitioner did consist of large natural lake. The DP land is actually the land consisting the said lake. With the passage of time, the size of the lake has

shrunk and the non-DP land is actually the land becoming available on account of shrinking of the lake. Therefore, the alleged claim of the petitioner in respect of entire land (DP + non-DP) is highly disputable. According to them, compensation also cannot be paid till the dispute about the title is decided. It is further stated that Municipal Corporation has spent huge funds on the development of non-DP land, and the Corporation has leveled and beautified the entire land surrounding the lake wherein a meditation centre with the access through the non-DP land is constructed for the usage of not only the residents of the locality, but to other visitors. Entire land is in possession of the Corporation since 1997. At this stage, it is highly undesirable to return the non-DP land to the petitioner who has engaged one of the leading developers as its Power of Attorney. For no fault of municipal corporation, they are blamed for non-compliance of non-DP land. The State Government has not replied the letter dated 15th April 2015. Therefore, the Municipal Corporation cannot be compelled to return the non-DP land till decision of the Appeal by the Dy. Director of Land Records,

and even after the disposal of the Appeal, the Municipal Corporation must be given a fresh opportunity of completing the acquisition proceedings so far as non-DP land. About 60% of the land has been acquired and 20% of the land is covered by water. The acquisition proceedings for the balance 20% of the land are initiated by Municipal Corporation by sending a fresh proposal acquisition of non-DP land would be in the interest of the petitioner rather than restoration of the same since petitioner would not be in a position to develop the non-DP land on account of the pendency of the proposal of the Corporation for reservation of the non-DP land for “beautification of the lake”.

12 Bringing on record above facts, they contend that there is neither intention nor any will on the part of the respondents to violate the order of the Hon'ble Court. Additional affidavit of one Mr.Prakash Thakur Dy. Director of Town Planning is also placed on record. In terms of order of the High Court, Appeal No.9 of 2016 came to be decided by the Deputy Director, Land Records on 6th June 2017 allowing

the Appeal of the Corporation by setting aside the orders passed by Superintendent of Land Records, Raigad dated 8th December 2014. The order of the City Survey Officer mutating the name of the petitioner in the record of rights dated 4th August 2008 is also cancelled. By this order, the Property Card bearing City Survey No.4579 entering the name of the petitioner is also cancelled. Measurement Map bearing registration No. 2827 of 2007 is also cancelled. Under these circumstances, the land in question is no longer owned by the petitioner. Therefore, necessity to acquire any portion of the land would not arise. They have also addressed a letter to cancel the award dated 25th January 2017. Under these circumstances, implementation of judgment dated 2nd May 2014 is not possible.

13 Special Land Acquisition Officer, Pimpri Pune has also filed affidavit in reply on behalf of respondent nos.2 to 4. After narrating the order dated 2nd May 2014, they have placed on record the details of the application for extension of time which was extended upto 31st December 2016. After

completing all technical procedure regarding draft award under DP proposal, it was placed for approval, and approval was received on 28th December 2016. The SLAO directed first respondent Corporation to deposit the approved draft award amount as per letter dated 28th December 2016. At that stage, at the request of the Corporation, SLAO applied to the High Court to extend the time for declaration of award for further six months so that they would be able to deposit the amount. On 25th January 2017, approved draft award was received and then the award was passed on 25th January 2017 in respect of 56,864.70 sq.m. They also brought to the notice with regard to two portions of land to be acquired, one is DP proposal and another under non-DP proposal. The award declared on 25th January 2017 pertains to DP proposal. So far as non-DP proposal is concerned, it lapsed on 14th June 2012, and Corporation had to submit a fresh land acquisition proposal as per the new law of 2013 in a prescribed format along with the necessary document. The SLAO informed first respondent the time frame directed by the High Court by an order dated 2nd May 2014. Award for non-DP amount could

not be passed since there was no proposal for fresh land acquisition.

14 The point that would arise for our consideration is whether there is intentional violation or disrespect to the directions of this Court in Writ Petition No.7497 of 2013. In the normal legal battle or suit/Appeal, the parties who come to Court are the parties to the proceedings against whom such relief is sought and who are interested in the matter have to be necessarily heard, and the Court has to adjudicate the dispute by a decision since parties are interested in the decision pertaining to a particular relief sought in a legal proceeding. However, the Court which deals with the Contempt Petition against a person cannot apply the same yardstick. Since the person against whom contempt is initiated, cannot be equated with the parties fighting their personal cause or interest in a particular matter seeking adjudication of the dispute. It is expected that the contempt matter be decided without dealing with the personal interest of the parties though it is a contempt against the Court. The

jurisdiction of the Contempt Court therefore, cannot be invoked for the purpose of appeasing vindictive motive of a party, but it has to be only to uphold the Rule of law. It is well settled that the Majesty of Law and dignity of Rule of Law has to be maintained. In a contempt proceeding, the role of the party who comes before the Court espousing the so-called violation of the directions of the Court which comes in the way of majesty of the Court or rule of law, is that of only an informant. Once the informant brings to the notice of the Court, the facts revealing the alleged wilful disobedience of an order or direction, his duty ends. Therefore, he proceeds with the matter only for the purpose of assisting the Court during the proceedings at the instance of the Court. Ultimately, it lies within the discretion of the Court to act or not to act on the material brought to the notice of the Court by the complainant. Once complainant brings to the notice of the Court the alleged violation of the direction or order, it becomes a matter between the Court and the contemner. The duty of the informant ends once the fact of disobedience is brought to the notice of the Court. It is well settled that the

contempt proceedings and the jurisdiction of the Court in contempt proceedings is not adversarial in nature. The party or the subordinate Court which brings the contumacious conduct of the alleged contemner can never be equated with the status of a litigant in the normal proceedings. Contempt jurisdiction cannot be invoked to wreck personal vengeance against the contemnors.

15 It is useful to rely upon the following judgments to understand what exactly amounts to civil contempt.

16 In *Ashok Paper Kamgar Union v. Dharam Godha and Ors.*¹ the Supreme Court had an occasion to consider the concept of 'wilful disobedience' of an order of the Court. It was stated that 'wilful' means an act or omission which is done voluntarily and with the specific intent to do something the law forbids or with the specific intent to fail to do something the law requires to be done, that is to say, with bad purpose either to disobey or to disregard the law. According

¹(2003) 11 SCC 1,

to the Court, it signifies the act done with evil intent or with a bad motive for the purpose. It was observed that the act or omission has to be judged having regard to the facts and circumstances of each case.

17 In *Kapildeo Prasad Sah and Ors. v. State of Bihar* and Ors.¹ it was held that for holding a person to have committed contempt, it must be shown that there was wilful disobedience of the judgment or order of the Court. But it was indicated that even negligence and carelessness may amount to contempt. It was further observed that issuance of notice for contempt of Court and power to punish are having far reaching consequences, and as such, they should be resorted to only when a clear case of wilful disobedience of the court's order is made out. A petitioner who complains breach of Court's order must allege deliberate or contumacious disobedience of the Court's order and if such allegation is proved, contempt can be said to have been made out, not otherwise. The Court noted that power to punish for

1[1999 (7) SCC 569]

contempt is intended to maintain effective legal system. It is exercised to prevent perversion of the course of justice.

18 In *Anil Ratan Sarkar and Ors. v. Hirak Ghosh and Ors.*¹, the Supreme Court held that the Contempt of Courts Act has been introduced in the statute-book for securing confidence of people in the administration of justice. If an order passed by a competent Court is clear and unambiguous and not capable of more than one interpretation, disobedience or breach of such order would amount to contempt of Court. There can be no laxity in such a situation because otherwise the Court orders would become the subject of mockery. Misunderstanding or own understanding of the Court's order would not be a permissible defence.

19 It was observed that power to punish a person for contempt is undoubtedly a powerful weapon in the hands of Judiciary but that by itself operates as a string of caution and cannot be used unless the Court is satisfied beyond doubt that

¹(2002 (4) SCC 21)

the person has deliberately and intentionally violated the order of the Court. The power under the Act must be exercised with utmost care and caution and sparingly in the larger interest of the society and for proper administration of justice delivery system. Mere disobedience of an order is enough to hold a person guilty of civil contempt. The element of willingness is an indispensable requirement to bring home the charge within the meaning of the Act.

20 In *All Bengal Excise Licensees Association v. Raghabendra Singh and Ors.*,¹ the Supreme Court considered several cases and observed that wilful and deliberate act of violation of interim order passed by a competent Court would amount to contempt of Court.

21 In *Dinesh Kumar Gupta Vs. United India Insurance Co.Ltd*², in paragraph nos.15 and 17, the Court observed as follows:

1(2007) 11 SCC 374

2 (2010) 12 SCC 770

“15. the Contempt of Courts Act, 1971 clearly postulates the existence of only the following preconditions before a person can be held to have committed civil contempt:

(i) There must be a judgment or order or decree or direction or writ or other process of a court; or an undertaking given to a court;

(ii) The judgment etc. must be of the court and undertaking must have been given to a court;

(iii) There must be a disobedience to such judgment, etc. or breach of such undertaking;

(iv) The disobedience or breach, as the case may be, must be wilful.”

22. This now leads us to the next question and a more relevant one, as to whether a proceeding for contempt initiated against the appellant can be held to be sustainable merely on speculation, assumption and inference drawn from facts and circumstances of the instant case. In our considered opinion, the answer clearly has to be in the negative in view of the well-settled legal position reflected in a catena of decisions of this court that contempt of a civil nature can be held to have been made out only if there has been a wilful disobedience of the order and even though there may be disobedience, yet if the same does not reflect that it has been a conscious and wilful disobedience, a case for contempt cannot be held to have been made out. In fact, if an order is capable of more than one interpretation giving rise to variety of consequences, non-compliance of the same cannot be held to be wilful disobedience of the order so as to make out a case of contempt entailing the serious consequence including imposition of punishment. However, when the Courts are confronted with a question as to whether a given situation could be treated to be a case of wilful disobedience, or a case of a lame excuse, in order to subvert its compliance, howsoever articulate it may be, will obviously depend on the facts and circumstances of a particular case; but while deciding so, it would not be legally correct

to be too speculative based on assumption as the Contempt of Courts Act 1971 clearly postulates and emphasizes that the ingredient of wilful disobedience must be there before anyone can be hauled up for the charge of contempt of a civil nature.”

22 In *Ram Kishan Vs. Tarun Bajaj & ors*¹, the Supreme

Court observed as under:

“Thus, in order to punish a contemnor, it has to be established that disobedience of the order is ‘wilful’. The word ‘wilful’ introduces a mental element and hence, requires looking into the mind of person/contemnor by gauging his actions, which is an indication of one’s state of mind. ‘Wilful’ means knowingly intentional, conscious, calculated and deliberate with full knowledge of consequences flowing therefrom. It excludes casual, accidental, bonafide or unintentional acts or genuine inability. Wilful acts does not encompass involuntarily or negligent actions. The act has to be done with a “bad purpose or without justifiable excuse or stubbornly, obstinately or perversely”. Wilful act is to be distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently. It does not include any act done negligently or involuntarily. The deliberate conduct of a person means that he knows what he is doing and intends to do the same. Therefore, there has to be a calculated action with evil motive on his part. Even if there is a disobedience of an order, but such disobedience is the result of some compelling circumstances under which it was not possible for the contemnor to comply with the order, the contemnor cannot be punished. “Committal or sequestration will not be ordered unless contempt involves a degree of default or misconduct”.

23 In the above background, we have to see whether there is wilful disobedience or violation of the order or

1 (2014) 16 SCC 209

directions of the Court by the respondents in Writ Petition No.7497 of 2013. The directions in the said Writ Petition are in terms of order dated 2nd May 2014 which are as under :

“(i) We grant time of two years from today to the fourth Respondent – Municipal Corporation to take recourse to the proceedings of the compulsory acquisition in respect of the land subject matter of agreement dated 8th July, 1997;

(ii) If the award under the relevant law is not made within a period of two years from today, on expiry of the period of three months from the said period of two years, the Municipal Corporation shall restore the possession of the land subject matter of Petition to the Petitioner. While restoring the said land, the Municipal Corporation will have to restore the same to its original condition as on the date of the said Agreement;

(iii) In the event, the fourth Respondent is in position to offer TDR to the Petitioner before the completion of acquisition within the stipulated period of two years, it will be open for the fourth Respondent to move this Court for modification of the directions issued as above;

(iv) We make it clear that we have made no adjudication on the disputed questions raised by the State Government as well as by the Municipal Corporation as regards the title of the Petitioner to a part of the land subject matter of the said agreement. The said issue will have to be resolved as observed earlier;

(v) We partly allow the Petition on above terms;

(vi) Parties to act upon the authenticated copy of this order.”

24 From the above judgment, it is made clear that the dispute is with regard to a portion of the land, which according to the authorities, seems to be the land of the State Government. The Division Bench had made it clear that while making an award of grant of compensation, it is for the Collector or the SLAO to decide whether petitioner is entitled to receive any compensation and to what extent. The award will also contain statement as regards the exact area which is the subject matter of acquisition. The Division Bench made it clear that they were not deciding the issue whether the petitioner is an absolute owner of the entire land, the subject matter of the said agreement, since such issue will be taken care of during the acquisition proceedings, if any. Apparently, the agreement is between the petitioner trust and the municipal corporation of city of Pimpri. It was in respect of 1,05,400 sq.m. Though the Director, Town Planning had fixed valuation of the land, the resolution of the general body of the municipal corporation records that compensation could not be paid as the petitioner was unable to produce the

documents of title in relation to the said land. However, a notification dated 18th May 2009 was issued under sub-section (4) of Section 126 of Maharashtra Regional and Town Planning Act read with Section 6 of the Land Acquisition Act, 1894 in respect of City Survey no.4579 which corresponds to Survey No.1. The SLAO filed an affidavit before the Division Bench on 29th October 2013 that after publication of the notification on 18th May 2009 in relation to an area of 22,035.31 sq.m, award was not passed on the basis of the said notification published on 10th June 2010. Therefore, in terms of Section 11A of the Land Acquisition Act, acquisition proceedings came to be lapsed.

25 With regard to Civil Suit No.685/2003 in respect of part of the land covered by the agreement was subject to condition of the petitioner withdrawing the said suit. The suit came to be disposed of. It is also noted in the judgment of the Division Bench that an Appeal came to be preferred before the Superintendent of Land Records challenging the order of the Sub-Divisional Officer dated 29th August 2013.

In terms of the said challenge, the ownership of the petitioner in respect of part of the land was surrendered by the petitioner. The Government had to decide the said Appeal, was the contention since the Corporation was not in a position to grant TDR or FSI in respect of the entire land.

26 It is not in dispute that land admeasuring 56,864.70 sq.m. out of 1,05,400 sq.m was handed over to first respondent Corporation in terms of reservation under the Development Plan. Out of the balance, the unreserved land which is in possession of the first respondent is only 22,035 sq.m, and the balance of 26,500.30 is covered by natural lake. So far as the ownership of the petitioner on this land even at the time of disposal of the Writ Petition, a cloud was cast. The said cloud is still in existence since there is no adjudication finally opining that petitioners are neither the absolute owners of the land or they are the persons having interest in the land who are either entitled to receive the compensation or restoration of the land in question.

27 Six months extension was sought by the Corporation requesting the SLAO to do the needful before the Court for the purpose of approval of the General body and Standing Committee of the Corporation to deposit the amount directed by Divisional Commissioner, Pune by order dated 28th December 2016. However, the time that was extended to complete the process of acquisition of land was 31st December 2016. Final award came to be made on 25th January 2017. This would go to show that there was no intention to disobey or violate the orders of the Court to comply with the directions of the order or the judgment. By order dated 25th January 2017, award also came to be passed. It shows passing of the award was not within the hands of the 1st respondent since they were intimated to deposit Rs.45 crores and odd only on 28th December 2016 within a month from thereafter. A cheque for the said amount was submitted to SLAO. In order to hold a person as a contemner and take action against the said contemner, it is not just violation or disobedience to the directions or order of the Court, but it has

to be wilful disobedience which means intentionally disrespecting or acting in a way which lowers the dignity and majesty of the Court. The procedural hurdles which is common in any public office seems to be the reason for the delay in complying with the directions apart from administrative approval and other requirements to pay the money towards the compensation.

28 Apparently, so far as non-DP land, there was no completion of the acquisition proceedings. Acquisition proceedings was not in the hands of the first respondent. It had to be completed by SLAO way back in 2012. There was a direction to deposit Rs.Four crores towards non-DP land. However, at the time of approval of the draft awards, Divisional Commissioner, Pune raised queries opining that award was not published on or before 14th June 2012 in terms of statutory provisions of Land Acquisition Act. Divisional Commissioner also was of the opinion that enough time for scrutiny of the award was not given. Apparently, SLAO did not communicate that there was lapsing of the

acquisition proceedings. In the joint meeting held in July 2012, queries were made regarding the ownership or interest of the petitioners in the land in question. The Appeal against the order of the Superintendent before Dy. Director of Land Records was pending when the judgment in question on 2nd May 2014 was filed. Thereafter, there were correspondence requesting completion of land acquisition process. However, on account of SLAO seeking clarification from the Collector in respect of both DP and non-DP land, there was some delay. Only on 18th December 2014, it came to the knowledge of the first respondent that acquisition proceedings have lapsed. Immediately, a letter was written to SLAO for initiation of fresh proposal in terms of 2013 Act. An Appeal came to be filed when the first respondent learnt that the entire land was owned by the State Government. At the instance of first respondent, extension was granted upto 31st December 2016. According to first respondent, they were under the bonafide impression that the acquisition proceedings were still in force when they sought guidance from Principal Secretary, Urban Development on 15th April 2015. However, Government took

a stand that the entire land admeasuring 1,05,400 sq.m falls in the ownership of the State Government. If such being the position, the first respondent as local authority which also deals with the money of the public which is either received as taxes or from the consolidated fund cannot recklessly proceed with the matter by paying the compensation or restoring possession of the land. It is also on record that only in the year 2008-09, the name of the petitioner came to be incorporated in the land revenue records and they were not able to produce any document substantiating that they have right, title and interest to have their name incorporated in the land records. Under these circumstances, definitely, this Court cannot opine that there was wilful disobedience or violation of the directions or order of the Court to take severe action against contemner for contempt of Court. Therefore, we are of the opinion the proceedings deserves to be dropped and accordingly, dropped.

(N.M. JAMDAR, J)

(CHIEF JUSTICE)