

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

**CONTEMPT PETITION NO.269 OF 2008
IN
REVIEW PETITION NO.27 OF 2008
IN
WRIT PETITION NO.5740 OF 2007**

**Namdeo Eknath Bankar and others
Through their Power of Attorney Holder
Mr. Nemichand L. Poddar & Anr. : Petitioners.**

versus

The State of Maharashtra and ors. : Respondents.

**Mr. G S Godbole a/w Mr. Shailendra S Kanetkar for the Petitioners.
Mr. A B Vagyani, Government Pleader, a/w Ms. Tintima Hazarika for the
Respondent Nos.1 to 3.**

**CORAM : R. M. SAVANT, J.
Reserved on : 14th December 2016
Pronounced on : 10th January 2017**

P.C.

1 In the above Contempt Petition the Petitioners allege the contempt of the order dated 21/04/2008 passed by the learned Single Judge of this Court in Review Petition No.27 of 2008 in Writ Petition No.5740 of 2007. The said Writ Petition No.5740 of 2007 was filed by the Petitioners herein challenging the order dated 07/02/2007 passed by the then Hon'ble Minister for Revenue, Government of Maharashtra by which order the order dated 09/08/2002 passed by the Secretary and Officer on Special Duty (Secy. & OSD" for short) was reviewed and set aside. The said Writ Petition was allowed by

the learned Single Judge of this Court by the order dated 21/01/2008 and it was observed by the learned Single Judge that as sums as computed with interest shall be remitted within a period of six weeks from the date and if the remittance is made within this period, the concerned authorities to accept the same as full and final settlement of the claim towards unearned income and the authorities to take necessary steps so that the Purchaser/Transferee of the land holds the same on the terms and conditions stipulated in the order of allotment.

2 Since an error in respect of the amount payable as unearned income towards premium had crept in the said order dated 21/01/2008, a Review Petition was filed by the Petitioners. The said Review Petition was allowed and the amount mentioned in the said order dated 21/01/2008 was accordingly corrected. The consent of the learned AGP appearing on behalf of the State as recorded in the said order dated 21/01/2008 was also deleted.

3 Against the said order dated 21/01/2008 passed in Writ Petition No.5740 of 2007 and the order dated 21/04/2008 passed in Review Petition No.27 of 2008, the Respondents -State had filed Letters Patent Appeal No.410 of 2008. The Division Bench of this Court has dismissed the said LPA by reasoned order dated 18/08/2009 and thereby confirmed the order dated 21/01/2008 (wrongly referred to as the order dated 07/08/2006 in the order

of the Division Bench). The Division Bench however held that it was not necessary to go into the order dated 21/04/2008 passed in the Review Petition. Since the order dated 21/01/2008 read with order dated 21/04/2008 passed by the learned Single Judge was not being complied with that the above Contempt Petition came to be filed by the Petitioners.

4 As indicated above, the contempt alleged is of the order dated 21/04/2008 passed in the Review Petition. After filing of the above Contempt Petition, the order dated 24/02/2010 came to be passed by the Collector, Nashik granting permission to transfer as also permitting conversion of the land from agricultural to non-agricultural user. However, in terms of the Government Resolution dated 08/09/1983 the condition that the land would continue as Occupancy Class – II was retained by the Collector in the said order dated 24/02/2010. The said order dated 24/02/2010 is the subject matter of the Writ Petition No.6747 of 2016. The said order has also been placed on record in the above Contempt Petition by way of Affidavit in Reply filed on behalf of the State in the above Contempt Petition. In passing the said order dated 24/02/2010, the Respondents-State can now be said to have complied with the order dated 21/04/2008 passed by the learned Single Judge in the Review Petition by which the contempt has been alleged. Though the above Contempt Petition has not been amended so as to allege contempt even after passing of the said order dated 24/02/2010, it was the contention of the

learned counsel for the Petitioners that the said order also amounts to breach and violation of the order passed by the Secy. & OSD dated 09/08/2002 as the Collector has retained the contention that the transferee would continue to occupy the land as Occupant Class II. However significantly even after passing of the said order dated 24/02/2010 the Petitioner again applied afresh on 15/01/2015 for the same relief which application has been rejected by the Collector by an order dated 27/11/2015. The aforesaid fact therefore assumes relevance in so far as the exercise of Contempt Jurisdiction by this Court is concerned.

5 As indicated above, the said order dated 24/02/2010 is the subject matter of Writ Petition No.6747 of 2016. By the judgment and order delivered today i.e. on 10/01/2017, the said Writ Petition No.6747 of 2016 has been dismissed and resultantly the order dated 24/02/2010 passed by the Collector, Nashik has been upheld. In view thereof, there is now no warrant to proceed in the contempt jurisdiction. The above Contempt Petition is accordingly dismissed. Notice stands discharged.

[R.M.SAVANT, J]