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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 1708 OF 2016

Vasudeo Mahadeo Bhagat & Ors.

...Petitioners

Vs.

The Municipal Corporation for Gr. Mumbai & Ors. ...Respondents

Mr. H.S. Ansari for the Petitioners

K.H. Mastakar for the MCGM

CORAM : NARESH H. PATIL &

M.S. KARNIK, JJ.

DATED : 27TH FEBRUARY, 2017

P.C. :

The Petitioner No.1 had earlier filed Writ Petition No. 2496 of 2013, which came to be disposed of by the Division Bench of this Court by an order dated 11th August, 2014 which reads thus:

“We are inclined to dispose of the present Petition directing the Respondent/Corporation to decide representation/complaint dated 25.03.2013 filed by the Petitioners for alleged illegal and unauthorised construction on CTS No.D 342 at Patil Pada, Pitale Gully, Dutt at C.T.S. D 256, Village – Danda, Khar(West), Mumbai 400 052 as early as possible and preferably within six weeks as the statement is made by the learned Counsel appearing for the Petitioners that the building in question is still in existence inspite of repeated complaints.

2. The Writ Petition is accordingly disposed of with above direction. There shall be no order as to costs”.

2. According to the Petitioners the orders passed by this Court were not complied with. He filed a Contempt Petition bearing No.21 of 2015. The Contempt Petition came to be dismissed by an order dated 25th April, 2016, which reads thus:

“The grievance of the Petitioners is that though this Court by an order dated 11th August, 2014 had directed the Respondent Corporation to decide the representation / complaint dated 25.3.2013 filed by the Petitioners for alleged illegal and unauthorised constructions at village Danda, Khar(West) within six weeks, the said direction has not been complied with, and therefore, the Respondent Corporation has committed contempt.

2. The Respondents have filed the reply. In the reply, they have stated that they have partly demolished the structures with the assistance of Khar Police Station. However, since there was strong resistance from the local residents, the entire structures could not be demolished. In view of the affidavit in reply filed by the Respondents, we find that there was a substantial compliance of the order passed by this Court and the reason for non-compliance are mentioned in the reply. Hence, we are of the view there is no contempt of the order passed by this Court. Contempt Petition is, therefore, dismissed”.

3. Learned Counsel for the Petitioners submits that the Petitioner No.1 filed a suit for the demolishing the subject structure, which was erected adjacent to the Petitioners' structure.

4. We have perused the orders passed by this Court. In view of the fact that the suit filed by the Petitioners for the same cause of action and in view of the earlier orders passed by this Court, we are of the view that the Petition is not maintainable and requires no interference. Hence, the Petition is dismissed.

(M.S. KARNIK, J.)

(NARESH H. PATIL, J.)