

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**906 CONT. PETITION NO. 4 OF 2017
IN CA/8152/2015**

DAMODAR RAMCHANDRA YADKIKAR

...Petitioner

VERSUS

SANTOSH KHANDEKAR AND ANOTHER

...Respondents

.....
Mr.Amit A. Yadkikar, Advocate for the Petitioner
Mr.Y.G. Gurathi, AGP for the Respondent/State
.....

**CORAM : T.V. NALAWADE &
SUNIL K. KOTWAL, JJ.**

DATED : 3rd May, 2018.

PER COURT:

. The petition is filed for taking action against the respondent-local body on contempt of Court, as according to the petitioner, the respondent has not complied the order made by this Court in Civil Application No.8152/2015. This Court had directed the respondent-local body to see that the TDR in view of compensation is given as per the rules. That order was made on 26.02.2016. Submissions made today and the record which was produced show that, on 26.02.2016, the petitioner accepted one TDR, of area 1266 sq. mtrs. under protest. It is contention that he is entitled to get TDR of 2532 sq. mtrs.

(2)

2. The aforesaid submissions and record show that it needs to be observed that the order made by this Court of allowing the present petition to accept TDR in view of the compensation amount has been substantially complied with. Whether the petitioner is entitled to get double TDR is again a question which may give rise to separate cause of action. The entitlement of the petitioner of two TDRs. cannot be considered in a proceeding like present one.

3. The learned counsel for the petitioner submitted that this Court had given direction to see that the TDR is given within one month period from the date of the order and at least to that extent that, it can be said that the order is not complied with and there is contempt of Court. Though, technically that submission may be correct, the exercise of the power of contempt is within the discretion of the Court and even the aforesaid circumstances, this Court holds that nothing more is required to be done in present proceeding. This Court is making clear that the petitioner will be entitled to take appropriate proceeding, if he has a grievance that as per the entitlement TDR is not given to him. In view of the aforesaid circumstances, nothing survives in the present matter and so proceeding is dismissed. Notice is discharged.

(SUNIL K. KOTWAL)
JUDGE

(T.V. NALAWADE)
JUDGE