

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONEMPT PETITION NO. 47 OF 2017
IN
WRIT PETITION NO. 11579 OF 2012

Mr.Siddheshwar Mogalappa Kamurthi. ... Petitioner.
V/s.
The State of Maharashtra and another. ... Respondents.

Dr.Ramdas P. Sabban with Mr.Subhash Gutte for the petitioner.
Mrs.R.A.Salunkhe, AGP for respondent No.1.
Mr.N.R.Bubna for respondent No.2.

CORAM : A.S.OKA AND RIYAZ I. CHAGLA, JJ.

DATE : 23rd April 2018.

P.C.:

Heard the learned counsel appearing for the contempt petitioners. The breach alleged is of order dated 8th June 2016 passed by the Division Bench of this Court in Writ Petition No.1157/2012. Clause-1 of the said order reads thus:

“1. Parties through their Counsel. Learned Counsel appearing for the Respondent Corporation has filed affidavit in reply. Having considered the submission made in the affidavit in reply, it is revealed that the Officers of the Corporation have taken all possible steps in accordance with law for demolition of the construction in question. An assurance has been given that further, action will be taken in accordance with law. In view of the above steps being taken by the Corporation and the assurance given in our considered

view nothing survive in this Petition. We dispose off the Petition recording the stand of the Corporation.”

Today, an affidavit has been tendered by Shri Manohar Hire, the Commissioner in which it is stated that due to ad-interim order passed by the Civil Court, action of demolition could not be taken. The details of the orders passed in three suits have been set out in the affidavit. In paragraph-5 of the affidavit, the Municipal Commissioner has given an assurance that appropriate action will be initiated after interim order is vacated. We accept the said statement.

2. The learned counsel appearing for the petitioner invited our attention to the order dated 24th February 2016 which directs initiation of appropriate action against the officer who may be guilty of dereliction of duty. He submits that an affidavit of the Municipal Commissioner is silent about compliance with the said direction.

3. We find that the said direction about action to be taken against the officer was an interim direction. While disposing of the petition vide order dated 8th June 2016, this Court has not given any direction about taking action against the officers. As the interim order has merged into the final order dated 8th June 2016, it will not be appropriate to initiate action under the Contempt of Courts Act, 1971 for breach of the interim order dated 24th February 2015. Moreover, the petitioner has not challenged the order dated 8th June 2018 which does not contain any direction about taking action against the erring municipal officers.

4. Therefore, in our considered view, as of today no case is made out to proceed further in the contempt petition. Accordingly, by accepting the assurance given in paragraph-5 of the affidavit of the Municipal Commissioner which is tendered today, we dispose of this contempt petition.

(RIYAZ I. CHAGLA, J.)

(A.S.OKA, J.)