

*Sharayu Khot.*

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

**CONTEMPT PETITION NO. 63 OF 2012**

**IN**

**WRIT PETITION NO. 8410 OF 2009**

**Tejkaran Rupchand Heda & Anr.**

**...Petitioners**

*Versus*

**The Bhiwandi Nizampur City Municipal  
Corporation & Ors.**

**...Respondents**

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Mr. Sandesh Deshpande, for the Petitioners.

Mr. N.R. Bubna, for the Respondent No. 1.

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**CORAM : ABHAY S. OKA AND  
RIYAZ I. CHAGLA, JJ.**

**DATE : 2 April 2018**

**ORDER :**

1. Heard the learned Counsel appearing for the  
Petitioners. The breach alleged is of the direction contained in

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April 2, 2018

the order dated 11 August 2010. The relevant part of the order reads thus:-

*“In our view, the first respondent-Corporation should take appropriate decision in this behalf in accordance with law after hearing the petitioners and respondent Nos. 2 and 3 and whatever may be the decision, may be communicated to the petitioner. Even if the petitioners prove that they have title or if fail to prove their title over the disputed property, it should not be construed that we have directed action against the offending structure one way or the other. This aspect is left to the discretion of the first respondent Corporation. However, appropriate decision may be taken by the Corporation within a period of three months from today.”*

2. The grievance of the Petitioners is that no decision was taken by the 1st Respondent-Municipal Corporation within

the stipulated period of three months.

3. It is not in dispute that the present Petitioners filed Writ Petition No. 5828 of 2014 in this Court seeking a *writ of mandamus* directing 1st Respondent-Municipal Corporation to demolish the structure which was the subject matter of the Writ Petition No. 8410 of 2009. By the detailed order dated 31 October 2017 passed by a Division Bench of this Court, the Writ Petition was disposed of by observing that the temporary injunction granted by the Civil Court prevented the 1st Respondent from taking any action.

4. It is true that within the specified time of three months, a decision was not taken by the 1st Respondent. However, considering the order dated 31 October 2017 passed by the Division Bench of this Court in the subsequent Petition filed by the Petitioners, this is not a fit case to initiate an action under the Contempt of Courts Act, 1971. Accordingly, the Petition is disposed of.

5. We however, make it clear that in the event injunction granted in the civil Suit is vacated, 1st Respondent is bound to take action in accordance with law.

[RIYAZ I. CHAGLA J.]

[ABHAY S. OKA, J.]