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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO.299 OF 2015
WITH
CIVIL APPLICATION NO.10 OF 2018 IN
CONTEMPT PETITION NO.299 OF 2015 IN
WRIT PETITION NO.8853 OF 2010

Shri. Vasant Appasaheb Choughule and Anr.	... Petitioners
Vs.	
The Pune Municipal Corporation and Anr.	... Respondents

Mr. Shriram S. Kulkarni for the Petitioners in CP/299/2015 and for Applicants in CAN/10/2018.

Mr. Abhijit P. Kulkarni for the Respondent No.1 in CP/299/2015 and CAN/10/2018.

Mr. Manish M. Pabale, AGP for Respondent No.2 in CP/299/2015 and CAN/10/2018.

**CORAM : A.S. OKA &
RIYAZ I. CHAGLA, JJ.**

DATE : 20th APRIL, 2018

PC.

1 In Writ Petition No.8853 of 2010 filed by the Contempt Petitioners, there were two separate orders passed in relation to two separate temples. The first order is of 3rd February 2014 by which the first respondent – Municipal Corporation was directed to take action for removal of illegally constructed Hanuman Temple. Time of 6 months

was granted to the Municipal Corporation to do so. Under the said order dated 7th May 2014, this Court directed the first respondent – Municipal Corporation to initiate action of demolition of the structure/shed of Ganesh Temple in accordance with law.

2 In the present Contempt Petition, in paragraphs 6 and 7, there is a reference to both the orders. Only allegation of contempt is in paragraph 8 which reads thus :-

“8. The Petitioner submits that, inspite of having knowledge of the abovesaid orders of this Hon'ble Court, the Respondent No.1 has deliberately and intentionally failed to comply with the directions of this Hon'ble Court within the stipulated time as stated in the orders.”

3 There is an additional affidavit filed by the first petitioner which is of 29th January 2018. Paragraph 4 of the said affidavit records that action of demolition has been taken by the first respondent. However, debris of the demolished structure has not been removed. There is an allegation that while carrying out the work of demolition, a damage has been caused to a pipeline and drainage system. The other allegation is that Hanuman Seva Trust has started reconstruction of the demolished Temple.

4 Thus, the additional affidavit shows that substantial compliance has been made. In Civil Application No.10 of 2018, a prayer is made for removal of the remaining structure and directing the first respondent “to regulate water supply of the Applicants and also to take steps regarding proper drainage and water connection”. In paragraph 7 of the application, it is contended that temples have been partly demolished. This case made out in the application filed on 24th January 2018 is completely inconsistent with the statements made in the additional affidavit of the first petitioner dated 29th January 2018. Additional affidavit records that construction has been demolished but the debris is lying at the site.

5 Thus, even according to the case of the petitioners, substantial compliance has been made by the Pune Municipal Corporation of both the orders passed in the Writ Petition.

6 The learned counsel appearing for the petitioners makes a grievance that as disclosed in the additional affidavit, at the site of the demolished temple, a construction of new temple has been commenced but no action has been taken. This grievance cannot be a part of Contempt Petition. Needless to add that considering the background of the litigation and the orders passed in the Writ Petition, as this

allegation is brought to the notice of the first respondent, the said respondent is bound to take immediate action in accordance with law especially in the light of the allegation that temple which is demolished under the orders of this Court is being reconstructed. If appropriate action is not taken immediately, the petitioners have a remedy available. As regards the alleged damage caused to the water pipeline and drainage line, it will be always open for the petitioners to make appropriate representation which shall be expeditiously decided. If the debris has not been removed, the law requires the first respondent to remove the same immediately.

7 Subject to above directions, we find that no case is made out for initiating action under the Contempt of Courts Act, 1971. As of today, no relief can be granted in Civil Application No.10 of 2018 for the reasons recorded earlier. Accordingly, both the Contempt Petition and the Civil Application are disposed of.

(RIYAZ I. CHAGLA, J)

(A.S. OKA, J)