

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.230 OF 2015

IN

CIVIL APPLICATION NO.6024 OF 2008

IN

FIRST APPEAL NO.2306 OF 2008

Ramdas Dagdu Lade

-vs-

District Collector, Kolhapur and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri Rajesh N. Kachare, Advocate for petitioner.

Shri A. R. Patil, Assistant Government Pleader for respondent Nos.1
3 and 10.

Shri Chetan G. Patil, Advocate for respondent Nos.6 and 7.

CORAM : A.S.CHANDURKAR, J.

DATE : December 12, 2018

1. The petitioner herein alleges that by violating the orders dated 13/03/2009 and 24/11/2009 passed in First Appeal no.2306/2008, the respondent Nos.6 and 7 have committed contempt of this Court.

2. An order passed by the trial Court in R.C.S. No.446/2008 rejecting the plaint was the subject matter of challenge by the original plaintiff in First Appeal No.2306/2008. In that appeal interim orders were passed on 13/03/2009 and 24/11/2009 directing the respondent Nos.6 and 7 from carrying out any further construction. According to the petitioners the cause of action for filing this Contempt Petition arose on 03/07/2014 as pleaded in paragraph 21 of the

Contempt Petition thus rendering the said respondents liable for action. The learned counsel for the petitioner in terms of the averments made in the Contempt Petition seeks appropriate action to be taken against the said respondents.

3. The learned counsel for the respondent Nos.6 and 7 on the other hand submits that on the date on which the cause of action arose for filing that Contempt Petition as pleaded, the proceedings were not pending before this Court. He submitted that due to enhancement of pecuniary jurisdiction the proceedings in First Appeal No.2306/2008 were transferred to the District Court and on 07/09/2012 that appeal was allowed and the suit was directed to be decided on merits. After remand the suit was dismissed on 29/09/2015. It is thus submitted that on 03/07/2014 when the cause of action accordingly to the petitioner has arisen, matter was before the trial Court and there is no order indicating continuation of the interim relief that was granted on 13/03/2009 and 24/11/2009.

4. Heard the learned counsel and perused the documents on record. It is clear that though First Appeal No.2306/2008 was filed in this Court, same was transferred to the District Court pursuant to the order dated 17/06/2011. The appellate Court decided that appeal on 07/09/2012 and the matter was remanded to the trial Court for fresh adjudication. Thus on

03/07/2014 when the matter was before the trial Court, the orders of this Court passed in First Appeal No.2306/2008 are not found to be in operation. Moreover the suit as filed has also been dismissed by the trial Court.

5. In the light of the aforesaid, I do not find any case made out to initiate action against the respondent Nos.6 and 7. In these facts, Contempt Petition is dismissed.

Pending Civil Application is also disposed of.

(A.S.CHANDURKAR, J.)