

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 302 OF 2017
IN
WRIT PETITION NO. 12856 OF 2015

INDUS Towers Limited. ... Petitioner.
V/s.
Mr.Tukaram Munade and others. ... Respondents.

Mr.Jigar Parmar i/b. Link Legal India Law Services for the petitioner.

Mr.Sandeep V. Marne for respondent Nos.2 and 3.

CORAM : A.S.OKA AND P.N.DESHMUKH, JJ.

DATE : 12th February 2018.

PC.:

Heard the learned counsel for the petitioner who states that the petitioner does not want to press this contempt petition.

2. The allegation in this petition is that the mobile tower of the petitioner was removed in breach of the order of this Court dated 21st December 2016.

3. There is a reply filed by Shri Ashok Madhvi, Assistant Municipal Commissioner, E-Ward, Navi Mumbai Municipal Corporation. In the said affidavit, attention of the Court is invited to the order dated

21st December 2016 of which breach is alleged against the respondents in this petition. By the said order, the Municipal Corporation was directed to decide an application made by the petitioner for grant of permission to make temporary supporting structural work. It was directed that till the date of service of the order passed on the application, ad-interim relief granted on 3rd November 2016 will continue to operate. It was also directed that if the order be adverse to the petitioner, the said order shall not operate for a period of two weeks from the date of service of the said order.

4. In the affidavit of Shri Ashok Madhvi, it is stated that the application made by the petitioner was rejected and rejection was communicated by a letter dated 2nd January 2017 to the petitioner. It is stated that only after expiry of two months thereafter that an action of removal of tower was taken. It is also pointed out that after taking the action of removal on 20th March 2017, the demolition charges of Rs.50,000/- were recovered by the Municipal Corporation. Today, an additional affidavit is tendered by Shri Owais Momin, Assistant Director, Town Planning of the said Municipal Corporation to which an extract of the Dispatch Register of the Town Planning Department has been annexed. The Dispatch Register shows that on 3rd January 2017 the said letter was issued by an ordinary post to the Architect of the petitioner and the petitioner. The original register is produced for the perusal of the Court which shows that the register appears to have been maintained in regular course of business. There is nothing suspicious about the register.

5. Therefore, it is not possible for us to accept that there is breach committed of the order dated 21st December 2016. Moreover, by no stretch of imagination it can be said that breach, if any, is intentional or deliberate. Hence, no case is made out to proceed further. Accordingly, notice issued on 8th August 2017 is discharged. The contempt petition is disposed of.

(PN.DESHMUKH, J.)

(A.S.OKA, J.)