

R.M. AMBERKAR
(Private Secretary)

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3616 OF 2017

Jayprakash Narayan Jagtap .. Petitioner
Vs
State of Maharashtra & Ors. .. Respondents

WITH
CIVIL APPLICATION NO. 2510 OF 2017
IN
WRIT PETITION NO. 3616 OF 2017

Lintech Infrastructure Pvt Ltd & Anr. .. Applicants

In the Matter Between

Jayprakash Narayan Jagtap .. Petitioner
Vs
State of Maharashtra & Ors. .. Respondents

WITH
CIVIL APPLICATION NO. 438 OF 2018
IN
WRIT PETITION NO. 3616 OF 2017

J. Kumar Infra Projects Pvt Ltd .. Applicant

In the Matter Between

Jayprakash Narayan Jagtap .. Petitioner
Vs
State of Maharashtra & Ors. .. Respondents

WITH
CIVIL APPLICATION NO. 2188 OF 2017
IN
WRIT PETITION NO. 3616 OF 2017

Jayprakash Narayan Jagtap .. Applicant
Vs
State of Maharashtra & Ors. .. Respondents

-
- Mr. U.P. Warunjikar for the Petitioner and for the Applicant in

CAW 2188/2017

- Mr. Anilkumar Patil a/w Mr. Pankaj Pandey i/by Mr. Smit Nagda for the Applicants in CAWs 2510/17 & 438/18
- Mrs. M.P. Thakur, AGP for the State

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**CORAM : R.M. SAVANT &
M.S. KARNIK, JJ.**

DATE : SEPTEMBER 26, 2018.

P.C.:

1. The above Writ Petition has been filed seeking compliance of the direction issued by the Additional Commissioner, Konkan Division, Mumbai as contained in the order dated 26.9.2016 [wrongly mentioned as '2017' in prayer clause (a)] and compliance with the directions issued by the Hon'ble Minister of State dated 23.6.2014.

2. It is the case of the Respondents as stated in the Affidavit dated 15.6.2017 that the said order dated 26.9.2016 passed by the Additional Commissioner has been complied with. In spite of the factum of the lease of the Petitioner not being renewed, the site in question which was allotted to the Petitioner for quarrying has been sealed on the ground that the activities which were contrary to Condition No.28 of the lease deed dated 16.3.2009 were being carried

out. It is an undisputed position that the said sealing is continued till this day, however, no challenge has been raised in the above Petition to the said sealing and a challenge is now resorted to be raised on behalf of the Petitioner by tendering a draft amendment. However, between the lease date and today, a development has taken place in as much as a notice has been affixed on the site directing the party to whom the machinery which is lying on the site belongs to take away the said machinery. In fact, Civil Application bearing Nos. 2510 of 2017 and 438 of 2018 have been filed by two parties i.e Lintech Infrastructure Pvt Ltd and Another and J. Kumar Infra Projects Pvt Ltd. As also a Civil Application has been filed by the original Petitioner bearing No. 2188 of 2017 seeking the same relief as sought in the Civil Applications filed by the aforesaid parties. Be that as it may, Mrs. Thakur, the learned AGP, on instructions of Mr. Adhik S. Patil, Tahsildar, Thane who is personally present in Court makes a statement that the applicants Lintech Infrastructure Pvt Ltd and Another and J. Kumar Infra Projects Pvt Ltd would be permitted to take away the machinery if according to them the said machinery belongs to them. The said parties would accordingly have to execute the necessary documents in that regard, and take away the machinery

hence, in so far as the Civil Applications which are filed for the said purpose, the grievance of the applicants in view of the statement made by the learned AGP would not survive. All the Civil Applications stand disposed of in terms of the said statement.

3. The learned AGP, on the instructions of Mr. Adhik Patil, Tahasildar, Thane, makes a further statement that the site would be desealed and that an appropriate action in accordance with law would be taken against the Petitioner in the matter of recovery of lease rent. We expect the Tahasildar to de-seal the premises latest by tomorrow 5 p.m.

4. In so far as the action that is proposed to be taken in respect of recovery of rent, needless to say that the Authorities would proceed in accordance with law. It would be open for the Petitioner, if any such action is taken, to take appropriate recourse in law. We express no opinion in that regard. It is, therefore, now not necessary to keep the above Petition pending, the same to accordingly stand disposed of.

[M.S. KARNIK, J.]

[R.M. SAVANT, J.]