

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**CONTEMPT PETITION NO.83 OF 2017
IN
CONTEMPT PETITION NO.24 OF 2015
IN
WRIT PETITION NO.2241 OF 2013**

M Farroque M Yusuf : Petitioner.

Versus

**S N Bhagat
the Deputy Chief Engineer
(Then the Executive Engineer)
of MBR&R Board and ors.**

: Respondents.

**Mr. S K Jain i/by Mr. Sachin Ramchandra Gelye for the Petitioner.
Mrs. Manisha Shekhar Jagtap for the Respondent No.3.**

**CORAM : R. M. SAVANT &
K. K. SONAWANE, JJ.
DATE : 23rd AUGUST 2018**

P.C.

1 The contempt alleged is of the order dated 16/07/2014 passed in the Writ Petition No.2241 of 2013. By the said order the Respondent Nos.2 and 3 herein were directed to initiate action of issuance of work order for repair and/or reconstruction of building No.2/4/6, Narayan Dhuru Street, Khatiya Mansion, B-1, Division Pydhonie, Mumbai – 400 003 consisting of ground plus eight floor in accordance with the provisions of the MHADA Act.

2 It seems that since the said order dated 16/07/2014 was not being complied with, the Petitioner had filed Contempt Petition being No.24 of 2015. The said Contempt Petition had come up before a Division Bench of this Court

(Coram : S.C.Dharmadhikari and G. S. Kulkarni, JJ) on 25/06/2015, on which day a copy of the NOC dated 24/06/2015 was produced by the learned counsel appearing for the Mumbai Building Repair and Reconstruction Board (M.B.R. & R Board) and Maharashtra Housing and Area Development (MHADA). The said copy was accordingly taken on record by the Division Bench and in view thereof, the Division Bench did not deem it fit to exercise the contempt jurisdiction. The Division Bench prior to disposal of the said Contempt Petition however expressed the need for the M.B.R. & R Board and MHADA to expedite the process of issuance of the work orders as most of the time the tenants of the building are suffering on account of the fact that their building has been demolished either for repair or reconstruction and there is a delay in commencement of the work.

3 The said NOC which was produced before the Division Bench is annexed to the instant Contempt Petition at Exhibit-C. By the said NOC certain conditions have been stipulated by the M.B.R. & R Board amongst which is the condition that no work can be commenced without IOD and CC from the Municipal Corporation for Greater Mumbai (MCGM). Admittedly, in the instant case, the IOD and CC has not been obtained by the Petitioner and it seems that the Petitioner has already put up construction of ground plus 3 floors, and the Petitioner proposes to put up additional floor so as to construct a building of the same height and dimension as the original building was

according to the Petitioner. For the said purpose the Petitioner wants a work order to be issued by the M.B.R. & R Board and MHADA.

4 In the light of the fact that the Petitioner has not obtained the IOD and CC from the MCGM, in our view, no grievance can lie against the said two statutory authorities i.e. M.B.R. & R Board and MHADA. It is only after the Petitioner obtains the IOD and CC from the MCGM, that the M.B.R. & R Board and MHADA would process the Petitioner's case for grant of the work order. In our view, therefore, no case for initiating any contempt action against the Respondent is made out. The above Contempt Petition is accordingly dismissed.

[K. K. SONAWANE, J]

[R.M.SAVANT, J]

Laxmikant
Gopal
Chandan

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