

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CONTEMPT PETITION NO. 414 OF 2019
IN
WRIT PETITION NO. 8568 OF 2018**

Bijalabai Bhaginath Nighote

..PETITIONER

VERSUS

Hanumant Argunde
The Manager (Land),
Maharashtra State Road Development
Corporation Ltd., Aurangabad

..RESPONDENT

....
Mr. M.K. Bhosle, Advocate for petitioner
Mr. S.V. Advant, Advocate for respondent
....

**CORAM : PRASANNA B. VARALE AND
R.G. AVACHAT, JJ.
DATED : 30th JULY, 2019**

PER COURT :

Heard learned Counsel for petitioner. Simple notice was issued to respondent by order dated 02nd July, 2019, making the same returnable on 30th July, 2019 i.e. today.

2. The grievance of petitioner is of non-compliance of order of this Court dated 04th February, 2019. Perusal of the said order shows that petitioner was before this Court seeking directions for payment of compensation to the tune of Rs. 78,02,739/- as per sale deed executed

between petitioner and respondent. Counter submission was made before this Court on behalf of Respondent No.3 therein that petitioner is entitled only for an amount of Rs.42,43,919/-. Division Bench of this Court, considering the fact situation that as per sale deed amount of compensation payable to petitioner was Rs. 78,02,739/-. Said sale deed is on record and is intact. The consideration amount agreed upon in the sale deed binds the parties. As such, respondents are bound to pay the amount as per sale deed. Division Bench further permitted liberty to respondents to take up appropriate proceedings in case it is the claim of respondent that there is some error in the sale deed. Division Bench then in clear and unambiguous terms was pleased to observe that till the sale deed is in force, petitioner is entitled for the amount as per the sale deed. Respondents then were directed to pay the amount as per sale deed within a stipulated period of three months. In spite of representation submitted to the Secretary, General Administrative Department, Mantralaya, Mumbai, addressing order dated 04th May, 2019 passed by this Court and also to Deputy Collector and Administrator, Maharashtra State Road Development Corporation Ltd., order of this Court was not complied with. Left with no choice, petitioner is before this Court by way of contempt petition.

3. Mr. Advant, learned Counsel for respondent submitted before this Court that respondent – Maharashtra State Road Development Corporation

Ltd. has already filed Special Civil Suit No. 357 of 2019 before the learned Civil Judge Senior Division, Vaijapur with regard to sale deed in question and present petitioner has also caused appearance in the matter. Mr. Advant also invited our attention to order of this Court dated 02nd May, 2019 in Civil Application No. 5730 of 2019. Perusal of the said order shows that application was filed seeking extension of time and the fact of filing Special Civil Suit No. 357 of 2019 was brought to the notice of this Court. Division Bench of this Court permitted the parties to approach the Court for prohibitory order with regard to payment to be made and then observed that if such application is filed before the Court, naturally the Court would decide this on its own merits. Meaning thereby, Division Bench only reiterated liberty granted to respondent to take up appropriate remedies, if they feel that there is error in the sale deed. But this can't be treated as permission granted to respondent not to comply the order.

4. Considering these facts, we are of the opinion that by issuing certain directions while maintaining order dated 04th February, 2019 passed by this Court, interest of both the parties can be protected. It is submitted before this Court that an amount of Rs.42,43,990/- is already paid to petitioner and learned Counsel for petitioner admits this fact. In so far as the remaining amount to the tune of Rs.35,58,820/- is concerned, we direct respondent to deposit this amount in the Court of Civil Judge Senior Division,

Vaijapur, wherein Special Civil Suit No. 357 of 2019 is filed. This amount be deposited by respondent within two weeks from today. Needless to say that the amount was deposited by respondent subject to final decision of the suit. We further direct learned Civil Judge Senior Division, Vaijapur to decide said suit as early as possible and the parties are directed to cooperate the Court for early decision without seeking unnecessary adjournments in the matter.

5. With these directions, contempt petition is disposed of.

(R.G. AVACHAT, J.)

(PRASANNA B. VARALE, J.)

SSD