

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CONTEMPT PETITION NO. 547 OF 2019
IN
WRIT PETITION NO. 12648 OF 2018

Balasaheb S/o. Kundlik Ambad & Anr. Petitioners
Versus
Atik Kumar Pandey & Ors. Respondents

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Appearance:-

Shri. Arun V. Rakh, Advocate for the petitioners
Shri. R. I. Wakade, Advocate for respondent No. 2
Shri. Manoj Shelke, Advocate for respondent No. 4

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ALONG WITH
CIVIL APPLICATION NO. 12063 OF 2019
IN
CONTEMPT PETITION NO. 547 OF 2019
IN
WRIT PETITION NO. 12648 OF 2018

CORAM : PRASANNA B. VARALE
AND
ANIL S. KILOR, JJ.

DATE : 04TH NOVEMBER, 2019

PER COURT:-

1. On a grievance raised in the petition that the order passed by this Court on 4th March, 2019 is not complied with, the present Contempt Petition is filed. By order dt. 13th August, 2019, a simple notice was issued by this Court to respondents No. 4 and 5 i.e. Gramsevak and Sarpanch, Tq. Kaij, Dist. Beed.

2. In the writ petition, the petitioners had sought directions against the respondents to remove encroachment over Gayran Land in Gut No. 143, situated at Ladegaon, Tq. Kaij, Dist. Beed. In response to the notice issued by this Court in writ petition, affidavit-in-reply was filed by the I/c. Tahsildar. Reference was made to the Government Resolution dt. 11.07.2011. As per the Government Resolution dt. 11.07.2011, the Grampanchayat was expected to take appropriate steps and the local administration was to extend cooperation in exercise of removal of encroachment. By recording these facts and the statement made on behalf of the local administration i.e. Tahsildar, Kaij, that the District Administration shall extend cooperation in exercise of steps being taken by the Grampanchayat and on a statement made by the learned Addl. Government Pleader that within two months necessary steps would be taken, the writ petition was disposed of vide order dt. 04.03.2019.

3. On going through the Civil Application No. 12063 of 2019, it revealed that, subsequent to the order of this Court dt. 04.03.2019, an application was filed in this Court seeking recall of the order of this Court dt. 04.03.2019. The applicants were apprehending initiation of action by order dt. 04.03.2019 in Writ Petition No. 12648 of 2018.

4. The Division Bench of this Court in its order dt. 20.09.2019 in Civil Application No. 11440 of 2019 in Writ Petition No. 12648 of 2018, made it clear, that too in unambiguous terms, that the order dt. 04.03.2019 could not have been treated as if the directions issued by this Court but the order dt. 04.03.2019 was only on the backdrop of an affidavit filed by the Grampanchayat and the Gramsevak and in view of the statement made by the learned counsel appearing for Grampanchayat. The Division Bench, however, made it clear that this Court had not undertaken any exercise of deciding lis between the parties and reiterated that no direction is issued by this Court one way or the other. Now this order dt. 20.09.2019 makes it very clear that, the order passed by this Court on 04.03.2019 could not have been treated as an order issuing directions to the authorities and if that is so, there is hardly any scope for this Court to entertain the present Contempt Petition on an alleged grievance of non-compliance only on assumption and presumption of the petitioners.

5. Considering the limited scope and canvas of the Contempt of Courts Act and the order passed by this Court, and more particularly, subsequent order of this Court dt. 20.09.2019 in Civil Application No. 11440 of 2019, in our opinion, the present contempt

petition is devoid of any merit and being a merit-less petition, the same deserves to be dismissed and is accordingly dismissed.

6. In view of the order passed in the instant Contempt Petition, no orders are required to be passed in the connected Civil Application seeking intervention. The application is accordingly disposed of.

[ANIL S. KILOR]
JUDGE

[PRASANNA B. VARALE]
JUDGE

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