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

**CONTEMPT PETITION NO.555 OF 2019
IN
FIRST APPEAL NO.488 OF 2019**

1. Vilas S/o Shivdas Padwal,
Age: 66 years, Occu: Agriculture
2. Sharad S/o Shivdas Padwal,
Age: 51 years, Occu:Agriculture
3. Vijay S/o Haridas Padwal,
Age: 52 years, Occu:Agriculture
4. Vivek S/o Haridas Padwal,
Age: 44 years, Occu. Agriculture
5. Rajabhau S/o Shivdas Padwal,
Age: 43 years, Occu: Agriculture

Petitioner Nos. 1 to 5
All R/o: Uple (M),
Tq. & Dist. Osmanabad.

..PETITIONERS

VERSUS

1. Mr Maheshkumar V. Meghmale
Age: Major, Occu: Service working as:
Divisional Officer,
Maharashtra Industrial Development
Corporation, MIDC Industrial Area,
Latur, Tq. & Dist. Latur
2. Mr Chetan Girase
Age: Major, Occu: Service working as:
Sub-Divisional Officer &
Land Acquisition Officer,
Osmanabad, Tq. & Dist. Osmanabad

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3. The State of Maharashtra,
Through The Collector,
Osmanabad, Dist. Osmanabad ..RESPONDENTS

Mr V. D. Salunke, Advocate for petitioners

**CORAM : PRASANNA B. VARALE
AND
AVINASH G. GHAROTE, JJ.**

DATE : 4th OCTOBER, 2019

ORAL ORDER:

Heard learned Counsel appearing on behalf of the petitioners.

2. By an order dated 23rd August, 2019, a simple notice was issued to the respondent Nos.1 and 2, making the same returnable on 4th October, 2019. Today, on going through the order dated 11th January, 2019, passed by this Court in Civil Application No.13406 of 2018, it is revealed that the Division Bench of this Court in para 3 of the order, observed that :

"3. This Court holds that appellant acquiring body needs to be directed to deposit entire amount for giving the stay order. So application is allowed subject to condition of depositing entire compensation amount in this Court within eight weeks from today."

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3. Civil Application Nos.14047 of 2017 and other applications were disposed of.

4. It is the submission of Mr Salunke, learned Counsel appearing for the petitioners that the respondents are misusing the order of this Court and are only interested in prolonging the matter while enjoying the benefit of the interim order. It is also the submission of Mr Salunke that the application filed on behalf of the present petitioners (original respondents to the First Appeal), seeking directions to deposit the amount in this Court is also disposed of. Mr Salunke thereafter submits that the respondents cannot be permitted to take benefit of this peculiar situation wherein they are being protected by an interim order but have not complied with the directions therein. Mr Salunke, on this premise submitted that as this is a breach of directions of this Court, the petitioners are approaching this Court by way of present contempt petition.

5. Though the submission of Mr Salunke, learned Counsel for the petitioners looks attractive at the first blush, we are unable to accept it for more than one reason. Firstly, the acquiring body, which had filed first appeal, filed respective applications seeking interim order in the nature of stay. The Division Bench of this Court, by an order dated 11th January, 2019 directed the acquiring body to deposit the amount

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within stipulated period of eight weeks and it is specifically stated that the application for grant of stay is allowed subject to condition of depositing entire amount of compensation within eight weeks from the date of order.

6. At the cost of repetition, we state that the present petitioners have also filed an application seeking directions to the acquiring body to deposit the amount. The Division Bench of this Court granted interim order in the nature of stay, subject to the acquiring body fulfilling the condition of depositing the amount in this Court within the stipulated period. Thus, the applicant i.e acquiring body could have enjoyed the interim order of stay, only on fulfilling the condition precedent i.e deposit of amount in this Court within the stipulated period. The applications were disposed of, which would mean that if the condition precedent of depositing amount in this Court within the stipulated period is not complied by the applicant - acquiring body, there is no interim order operating in favour of the acquiring body. It is the submission of the present petitioners that the acquiring body has failed to deposit amount within the stipulated period and we reiterate that only result a non-operative order in favour of the acquiring body.

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7. In such a peculiar situation, we see no reason to entertain this contempt petition. The petition is dismissed as not tenable. We, however, make it clear that the present petitioners are at liberty to take appropriate steps as they deem and desire, if so advised.

(AVINASH G. GHAROTE, J.)

(PRASANNA B. VARALE, J.)

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