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

**CONTEMPT PETITION NO.561 OF 2019
IN
WRIT PETITION NO.5104 OF 2016**

Kalyan S/o Laxman Pole,
Age : 43 years, Occ. : Agri.,
R/o Gandheli, Post. Adgaon,
Tal. & District Aurangabad

..PETITIONER

VERSUS

Shri Uday Chaudhari,
The District Collector, Aurangabad,
Tal. & District Aurangabad

..RESPONDENTS

Mr S. B. Solanke, Advocate of petitioner;
Mr S. G. Sangle, A.G.P. for respondent
Mr A. G. Godhamgaonkar for respondent No.6 in writ petition;

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

DATE : 17th OCTOBER, 2019

ORAL ORDER:

Heard learned Counsel appearing on behalf of the petitioner at length.

2. The grievance was raised by way of present contempt petition is that the order of this Court, dated 20th February, 2019, passed in Writ Petition No.5104 of 2016 is not complied with.

(2)

3. By an order dated 21st August 2019, on hearing learned Counsel for petitioner, simple notice was issued to the respondent, making the same returnable on 3rd October, 2019.

4. In response to the notice of this Court, the affidavit-in-reply is filed on behalf of respondent-sole i.e. Shri. Uday G. Chaudhari. In the detailed affidavit-in-reply, certain facts are placed on record. The Review Application No.42 of 2019 was filed on behalf of Shri. Asaram Deorao Talekar. Mr Godhamgaonkar, learned Counsel appearing for the review applicant had submitted before the Court that though the affidavit-in-reply is filed on behalf of the District Collector, Aurangabad, in Writ Petition No.5104 of 2016, certain facts, such as, the applicant is in legitimate possession of the plot and the permission was also granted by the competent authority for carrying out business of stone crushing, etc. were not brought to the notice of the Court. Learned Counsel for the petitioner reiterated the submissions in the writ petition and referred in the affidavit-in-reply. On the backdrop of these counter submissions, the Division Bench of this Court, in clear and ambiguous words, was pleased to observe as follows:

“4. In fact, while disposing of the Writ Petition No. 5104 of 2016 under order dated 20.02.2019, we had not decided any issue in favour of or against any party. We had only reproduced the affidavit filed by the Collector

(3)

pursuant to which the grievance of the original writ petitioners did not survive.

5. We have not adjudicated as to whether the present Review Applicant is an encroacher or is carrying out activities against the terms of the allotment. It is for the authorities to consider the same.

6. It is clarified that before taking any action the Review Applicant shall be heard and the Review Applicant shall be given every opportunity to place all the documents on record before the authorities and the authorities shall consider the documents placed by the Review Applicant before proceeding further with any action in accordance with law.

5. Once this Court, in clear words observed that there was no decision on merits or on a particular issue while deciding Writ Petition No.5104 of 2016 and also no adjudication by this court as to whether the review applicant is an encroacher or otherwise, carrying out his business activities under certain terms of allotment and then leaving these aspects open for the consideration of the competent authority and further observing that an opportunity of hearing be given to the parties, we see no reason to entertain the present contempt petition on the premise of non-compliance of the order of this Court.

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6. In our opinion, the above referred observations only lead to a conclusion that the contempt petition is devoid of any merit and resultantly, the same is dismissed.

(A. G. GHAROTE, J.)

(PRASANNA B. VARALE, J.)

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