

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

**CONTEMPT PETITION NO. 540 OF 2019
IN
WRIT PETITION NO.7963 OF 2019**

Maroti s/o Laxmanrao Karhale,
Age: 44 years, Occ: Business & Agri.,
R/o. Parva, Tq. Palam,
District Parbhani

.. PETITIONER

VERSUS

1. Santoshi Devkule,
Age: 42 years, Occ: Service,
Working as Tahsildar, Palam,
R/o. Palam, Tq. Palam,
District Parbhani.

2. Kamlakar Phad,
Age: 50 years, Occ: Service,
Working as Sub Divisional Officer,
Gangakhed, Tq. Gangakhed,
Dist. Parbhani

.. RESPONDENTS

Mr Mahesh P. Kale, Advocate for the petitioner;
Smt. Geeta L. Deshpande, A.G.P. for respondent/State

**CORAM : PRASANNA B. VARALE &
R.G. AVACHAT, JJ.**

DATED : 8th AUGUST, 2019

ORAL ORDER:

Heard Mr. Kale, learned Counsel appearing for the petitioner.

2. On a grievance raised of non compliance of the order of this Court and subjecting to vehicle to the auction, learned A.G.P. was directed to take instructions. Learned A.G.P. on instructions made a statement before this Court yesterday i.e. on 7th August, 2019 that the auction which was scheduled on 8th August, 2019 is now postponed and at her request, the matter was adjourned today.

3. Today, learned A.G.P. on instructions from the officer Smt. Santoshi Sanjay Devkule, Tahsildar, Palam, who is personally present in this Court, submitted that the action of the authority subjecting vehicle to auction was an action taken under a *bona fide* belief. Learned

A.G.P. also submitted that respondent No.1 -Smt. Santoshi Sanjay Devkule, Tahsildar, Palam who is personally present in this Court is having highest regards to this Court and she is following the orders of this Court in letter and spirit. Learned A.G.P. then submitted before us that by order dated 1st July, 2019 the Division Bench of this Court permitted release of the vehicle on certain conditions. These conditions were namely;

(i) the petitioner shall deposit an amount of Rs.1,00,000/- for release of the vehicle,

(ii) the authority shall release the vehicle after identifying its legitimate owner and after verifying documents and on petitioner's submitting the bond,

(iii) so also after complying with all terms and conditions put forth by learned Judicial Magistrate, First Class while directing release of the vehicle.

4. Learned A.G.P. then submitted that the petitioner was also entitled to avail remedy of appeal. She then submitted that though the petitioner deposited an amount of Rs.1,00,000/- as per condition laid down by this Court, on the aspect of verification of the documents and ownership of vehicle when information was gathered, it was informed to the transportation authorities namely, R.T.O. office, Parbhani to the Sub Divisional Office, Gangakhed that the market value of the vehicle is to the tune of Rs.3,50,000/- and proceedings for transfer of the vehicle in the name of the petitioner was yet to complete. Learned A.G.P. further submitted that respondent No.1 was under a *bona fide* belief that as the aspect of verification of ownership of vehicle needed consideration in view of the report submitted by the transportation authority and as it was not complete compliance at the level of the petitioner, the respondent - authorities under *bona fide* belief subjected vehicle to auction.

5. Mr. Kale, learned Counsel appearing for the petitioner submitted before us that the petitioner is ready to tender a bond in view of the assessment of the market price of the vehicle. He further submitted that the petitioner has also availed remedy of appeal and the appeal is already presented before the Sub Divisional Officer, Gangakhed.

6. Considering these facts, we are of the opinion that the petitioner can be permitted to tender a bond for an amount equivalent to the value of the vehicle to the authority and as the petitioner had already deposited amount of Rs.1,00,000/-, on submitting such bond to the authority, the authority to release the vehicle of the petitioner forthwith. Needless to state that the release of the vehicle subject to final decision in the proceedings before the Magistrate as well as before the Sub Divisional Officer, Gangakhed.

7. Learned A.G.P. submitted that respondent No.1 -
- Smt. Santoshi Sanjay Devkule, Tahsildar, Palam who is
personally present in this Court, has tendered
unconditional apology and the action initiated by her was
only under a *bona fide* belief.

8. By accepting the unconditional apology tendered
by respondent No.1, the contempt petition is disposed of.

[R.G. AVACHAT, J.]

[PRASANNA B. VARALE, J.]