

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

**CIVIL APPLICATION NO.12461 OF 2018
WITH
CONTEMPT PETITION NO. 530 OF 2017
IN
WRIT PETITION NO. 10385 OF 2016**

**SAMARTH MATERIAL SUPPLIERS THROUGH ITS PROPRIETOR GANESH
ARUNRAO CHAVAN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr.D.P. Palodkar h/f. Mr.C.S. Deshmukh, Advocate for the applicant.

Mr.V.S. Badakh, AGP for respondent/State.

**CORAM : PRASANNA B. VARALE &
S.M.GAVHANE, JJ.**

DATED : 04.02.2019

P.C. :-

1. Heard learned Counsel for the applicant. By way of present application, the applicant prays for restoration of Contempt Petition. It is submitted that due to inadvertence, copies could not be supplied within stipulated period. Resultantly, the contempt petition was dismissed. Learned Counsel by inviting our attention to the order-sheet submitted that in response to order

dated 21.09.2017, affidavit in reply is also filed by respondent No.3. As there are certain statements in affidavit-in-reply, which would take care of the grievance of the petition, learned Counsel submits that disposal of the petition on technical ground may not be hurdle for petitioner. Considering these facts, the application is allowed. The contempt petition is restored and taken up for hearing disposal by the consent of the parties.

2. In a bunch of petitions, by order dated 30.01.2017, the Division Bench of this Court was pleased to direct the concerned authority mentioned in the petition to decide the applications/representations/proposals of the petitioners, as it was the only prayer pressed in service. The Division Bench further thought it fit to refer to stipulation of period for the decision. Accordingly, the authority was directed to decide the applications/representations/proposals within twelve weeks from the date of the order. It was

submitted before this Court that in-spite of order brought to the notice of the authority and in-spite of notice served on the authority, there are no decisions on the representations.

3. As stated above, in response to notice of this Court, respondent No.3 – Shvi Shivaji Jondhali, Collector, Jalna, filed reply on 21.11.2017. Certain facts are also brought to the notice of this Court by respondent No.3, namely, the petitioner participated in the tender process for allotment of sand-spots and being higher bidder, tender was allotted in favour of the petitioner. Due to unforeseen difficulties, such as accumulation of water at the allotted spot, the possession could not be delivered to the petitioner. A proposal was forwarded by the petitioner seeking permission to use suction pumps to remove water. But, in the mean time, the tender period itself was expired and the petitioner himself prayed for exchange of sand-spot in lieu of earlier sand spot. As the petition was

disposed of at the admission stage, these facts could not be brought to the notice of this Court. It is submitted in the affidavit-in-reply that the petitioner had approached the Hon'ble Minister, Revenue and Forest Department, seeking refund of deposited amount and this Court in a bunch of petitions, considering the limited prayer, disposed of the writ petition with directions. It is also stated in the affidavit-in-reply that in pursuance of order of this Court the Hon'ble Minister, Revenue and Forest Department, heard the appeals and the appeals are kept for order. It is also stated in the affidavit-in-reply that respondent No.1 will decide the appeal of the petitioner at the earliest. By taking into account the factual matrix, we see no reason for not to accept the statements made in the affidavit-in-reply, which were made in the year 2017.

4. Learned Counsel Mr. Palodkar fairly submitted that the factum of hearing stated in the affidavit-in-reply is in consonance with the record and as per his

instructions also respondent No.1 had heard the appeal.

5. Considering all these facts, we are of the opinion that the petition can be disposed of considering the statement made in the affidavit-in-reply through respondent No.3 – Collector, Jalna. We only observe that if the order is not yet passed by the Hon'ble Minister, the exercise of passing the order be undertaken without further delay and not later than three weeks from today.

6. With these observations/directions, the contempt petition is disposed of.

[S.M.GAVHANE, J.]

[PRASANNA B. VARALE, J.]