

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

**938 CONTEMPT PETITION NO.16 OF 2019
IN WP/8561/2018**

RAJENDRA DAGADU JANGALE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. B.G.Sagade
AGP for Respondent State : Mrs.M.A.Deshpande
Advocate for Respondent Nos.2 & 3 : Mr.Sudhir G. Bhalerao

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

DATE: 7th November, 2019

PER COURT:-

1. Heard learned counsel for the petitioners.
2. Though, by order dated 14.01.2019, simple notice was issued to respondent No.3, on perusal of the documents, certain facts are revealed and those facts prompted us to arrive at a conclusion that this Contempt Petition is wholly merit-less and was even unworthy for issuing notice.
3. The petitioners have filed Writ Petition No.8561 of 2018. Basic prayer clauses were 'B' and 'C'. Those prayer clauses read thus;

"B) By issuing writ of mandamus or any other appropriate writ, order or directions in the like nature, the respondent no.1 to 4 may

kindly be directed to take action against the respondent no.5 to 10 for their illegal act of removing Water Outlet No.10 (Chari No.10) of Mula Irrigation Department, Sonai Sub Division No.1 and to reconstruct the same as usual as before.

C) By issuing writ of mandamus or any other appropriate writ, order or direction in the like nature, the respondent no.1 to 3 may kindly be directed to take decision upon the representation dated 09/10/2014 (22/10/2014) made by the petitioner in respect of illegally removal of Water Outlet No.10 (Chari No.10) of Mula Irrigation Department, Sonai Sub Division No.1, by stipulating period."

4. On a submission of learned counsel for the petitioners that the petitioners are restricting the petition only to the extent of their application dated 09.10.2014, the Division Bench of this Court thought it fit to dispose of the Writ Petition with directions and on recording the appearance of learned AGP for respondent Nos.1 to 3. The Division Bench in paragraph No.4 of the order dated 30.07.2018, directed that if the application/representation is pending with respondent No.3 and if respondent No.3 is competent authority to decide it, then respondent No.3 shall decide it on hearing the parties within stipulated period of four weeks from the date of the order.

5. Writ Petition No.8561 of 2018 was filed by three petitioners namely Rajendra Dagadu Jangle, Sanjay Dagadu Jangle and Awantika Ramrao Sathe. Interesting enough to note that in the prayer, a reference is made to application/representation and in

the order of this Court also reference is made to the application/representation specifically i.e. Exhibit 'A' Page No.16 and in the application/representation Exhibit 'A' Page No.16, the applicant is Shivaji Rajaram Jangle and others. Again interesting enough to note that this representation is forwarded to Sectional Engineer of Mula Irrigation Department, Sonai Sub Division No.1, Tq.Newasa, Dist.Ahmednagar and that very Officer i.e. Sectional Engineer is not a party to the Contempt Petition, whereas the party to Contempt Petition is one Sub-Divisional Engineer, Mula Irrigation Department, Sonai Sub-Division No.1, Tq.Newasa, Dist.Ahmednagar i.e. respondent No.3.

6. At this point of time, Mr.S.G.Bhalerao, learned counsel appearing for respondents No.2 and 3 submitted that the petitioners have not presented entire facts before this Court at the time of filing of the petition. The learned counsel submitted that the application/representation, which is referred to in the petition and also in the order of this Court dated 30.07.2018 i.e. Exhibit 'A' Page No.16 is submitted by one Shivaji Rajaram Jangle to the Sectional Engineer and the said application/representation was already decided by the Sectional Engineer and a communication was forwarded to the applicant Mr.Shivaji Rajaram Jangle to that effect on 30.10.2014. The learned counsel for the petitioners also invited our attention to the

endorsement/signatures on the communication dated 30.10.2014. There are two signatures on the document; one is of Asha Jangle, President, Sadischya Pani Wapar Sanstha, Karajgaon, Tq.Newasa, Dist.Ahmednagar and another is of Mr.Shivaji Rajaram Jangle i.e. the applicant.

7. It is not in dispute that a Suit was filed in the Court of Civil Judge, Junior Division, Newasa by one plaintiff Awantika Ramrao Sathe and the defendants were Paraji Fakira Gudge and Kailash Rajaram Gudge. These two defendants were respondent Nos.6 and 10 in Writ Petition No.8561 of 2018. The learned Civil Judge, Junior Division, Newasa passed an order on application seeking temporary injunction on 21.12.2016 and by the said order, the application was allowed and the defendants therein, their agents, servants, relatives or anybody on their behalf were temporarily restrained from constructing road through the suit property till final decision of the suit.

8. There is another facet of a parallel proceeding initiated by Sopan Ambadas Jangle in the Court of Civil Judge, Senior Division, Newasa bearing Regular Civil Suit No.166 of 2019. In the said Suit, the Sectional Engineer, Mula Irrigation Department, Sub-Division Sonai No.1, Tq.Newasa, Dist.Ahmednagar as well as the Police Sub-Inspector, Sonai Police Station, Tq.Newasa, are

parties and by order dated 21.02.2019, ad-interim exparte injunction is granted and the defendants are directed to maintain status-quo until further orders.

9. All these facts only show that the petitioners have indulged in an act of initiating parallel proceeding amounting to multiplicity of litigation, dragging the State Authorities in a petition and above all seeking direction against respondent No.3 i.e. Sub-Divisional Engineer to decide the representation, when infact the representation was submitted to another Officer i.e. Sectional Engineer, who was not party to the Writ Petition. All these facts only reiterated our impression of a merit-less and unworthy Contempt Petition. Resultantly the order of issuing notice to respondent No.3 is recalled and the Contempt Petition is dismissed being thoroughly merit-less.

10. Though, the aforesaid facts would have prompted us to impose costs on the petitioners, but considering the status of these petitioners, who are agriculturists, we refrain ourselves from passing an order imposing costs on the petitioners.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)