

IN THE HIGH COURT OF BOMBAY AT GOA

**CONTEMPT PETITION NO. 4 OF 2019
IN
WRIT PETITION NO.657 OF 2015**

1. Dinanath N. Chari,
aged about 67 years, son of
Narcive Chari, retired;

2. Saraswati D. Chari,
aged about 59 years,
wife of Dinanath N. Chari,
housewife;

both residents of House No.25A,
Chandrawaddo, Fatorda,
Margao, Goa.

.... Petitioners

V/s.

1. Pramod Naik,
Assistant Engineer,
Electricity Department,
Aquem, Margao, Goa.

2. Alvito Fernandes,
Executive Engineer,
Electricity Department,
Aquem, Margao – Goa.

3. Sharad Naik,
Junior Engineer,
Electricity Department,

Aquem, Margao – Goa.

.... Respondents

Mr. Kaif Noorani, Advocate for the Petitioners.

Mr. Deep Shirodkar, Additional Government Advocate for the Respondent no.1.

Mr. P. Sawant, Advocate for the Intervenor.

**Coram : M. S. SONAK &
NUTAN D. SARDESSAI JJ.**

Date : 22nd July, 2019.

P.C.:

Heard Mr. K. Noorani, the learned Counsel for the petitioners and Mr. Deep Shirodkar, the learned Additional Government Advocate for the respondents. The petitioners allege contempt of the Order dated 27.1.2016 made by this Court in a pending Writ Petition no.657/2015, which reads thus:

“Heard Mr. K. Noorani, learned Counsel appearing for the petitioners and Mr. V. Rodrigues, learned Government Advocate appearing for the respondents.

2. Rule. Mr. Rodrigues waives service on behalf of the respondents.

3. Mr. Rodrigues, learned Government Advocate

appearing for the respondents, upon instructions, states that the respondents shall not carry out any construction activity in the subject-land. Accepting the statement of the learned Government Advocate, question of granting any interim relief at this stage, does not arise.”

2. Mr. Noorani, the learned Counsel, submits that notwithstanding the statement made on behalf of the respondent that they shall not carryout any construction activity in the subject land, the respondents began laying underground electricity connection to several persons in the locality. Mr. Noorani, the learned Counsel submits that this clearly amounts to over reaching of the statement in the Order dated 27.1.2016 and consequently amounts to willful disobedience.

3. Mr. D. Shirodkar, the learned Additional Government Advocate points out that no construction whatsoever has been undertaken in the subject land. He submits that there was necessity to lay underground cables in order to supply electricity connection to the persons in the locality. He submits that this does not amount to construction activity. He submits that there are sufficient powers to undertake such activity. He submits that underground cables has already been laid and the land has been restored to its original state. He submits that this can be considered as misinterpretation in the

Order dated 27.1.2016. He submits that there is absolutely no unintentional orders made by this Court or disobeying orders made by this Court. He points out that the Executive Engineer who has filed the Affidavit on behalf of the respondent no.2 tendered an unconditional apology on the basis that even if there is any unintentional disobedience, the Executive Engineer is sorry for the same.

4. Upon consideration of the rival contentions and perusing the material on record, we do not feel that this is a fit case to initiate contempt proceedings. At the highest this is a case of miscommunication. Admittedly the subject-land has been restored to its original condition.

5. There is on record a letter dated 23.1.2019 addressed by the Power of Attorney Holder of the petitioner no.2 to the Assistant Engineer, Electricity Department, in which she as stated that electricity connection be given only to her from the underground cable being laid with the subject-land.

6. Mr. D. Shirodkar, the learned Additional Government Advocate submits that the electricity connection will be surely given to the petitioner through the underground cable so laid, however the

same cannot be restricted only in giving electricity to the petitioners.

7. Upon cumulative consideration of all these aspects we see no good reason to initiate contempt proceedings against the respondents.

8. Accordingly, this contempt petition is disposed off.

NUTAN D. SARDESSAI, J. M. S. SONAK, J.

*af**