

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CONTEMPT PETITION NO.201 OF 2017
IN
WRIT PETITION NO.7129 OF 2016**

Smt. Bhauramma Shrikanth Vijapure
and Anr.

...Petitioners

Versus

Appaso Gurupadappa Vijapure and
Ors.

...Respondents

.....

Mr. Prasad B. Kulkarni for the Petitioners.

Mr. Samir Kumbhakoni for the Respondent No.1.

Mr. A.B. Kadam, AGP for the Respondent Nos.2 and 3.

Mr. Nagesh Y. Chavan for the Respondent No.4.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 25th JANUARY, 2019.

P.C.:-

The contempt petition is filed alleging that the Respondent No.1 has committed willful breach and disobedience of order dated 24th October, 2016 passed in in Writ Petition No.7129 of 2016.

2. The Petitioners had filed application under Section 5 of the Mamlatdar's Courts, Act, 1906, alleging that the Respondent No.1 has obstructed his access to gut No.64/1A and 64/1B. The learned Mamlatdar had allowed the application, however, in the revision

application filed by the Respondent No.1, the order passed under Section 5 of the the Mamlatdars' Courts Act, 1906 was set aside. Being aggrieved by the said order the Petitioners filed the Writ Petition No.7129 of 2016.

3. By order dated 24th October, 2016, this Court had granted ad-interim relief in terms of prayer clause (c) which reads thus:-

“c) Pending the hearing and final disposal of the present petition, the Petitioners may kindly be allowed to approach their field for cultivation of Gat Nos.64/1A and 64/1B.”

4. Said order was extended from time to time and is in force till date. The Petitioners claim that in violation and breach of the said order, the Respondent No.1 has constructed a tin shed over the passage existing in Gut No.63/1 and thereby obstructed the passage and prevented the Petitioners from using said passage to go to their agricultural property under Gut No.64/1. The Petitioners had also placed on record the photographs of the tin shed allegedly constructed over the Survey No.63/1.

5. By order dated 19th September, 2018 this Court (Coram:

Revati Mohite Dere, J.) had called for the report from Tahasildar, Tadwal, Taluka-Akkalkot, District-Solapur. He has submitted the report dated 8th October, 2018 stating that the tin shed has been constructed in Gut No.63/1. The Respondent No.1 had disputed having constructed the said tin shed and he had alleged that it was constructed by the Respondent No.4. The Respondent No.1 had claimed that the Petitioners had alternative access towards the northern side of Gut No.63/1. In view of the statement made by the Respondent No.1, the Respondent No.4 was impleaded as party Respondent. The Respondent No.4 has filed his affidavit in Writ Petition No.7129 of 2016, wherein he has denied to have constructed any tin shed and stated that the tin shed has been constructed by the Respondent No.1.

6. Today, when the matter was taken up for hearing the Respondent No.1, who is present before the Court has filed his affidavit, which reads thus :-

“Herein, I, Appasaheb Gurupadappa Vijapure, Age 58 years, Occupation : Agriculture, residing Ankalg, Akkalkot, District Solapur solemnly affirmation that:-

1. I have gone through the copy of above Contempt Petition and read the contentions raised/therein. I say that I have highest regard and respect to the order passed by this Hon'ble Court. I have no intention in any manner

whatsoever to commit breach of any manner and disobedience of the orders passed by this Hon'ble Court.

2. I respectfully submit that as aforesaid I have highest respect and regard to the order passed by this Hon'ble Court, I hereby tender my unconditional apology to this Hon'ble Court and lenient view may be taken in the matter.

3. I am filing the present affidavit in view of interim order passed in Writ Petition No.7129 of 2016 dated 24.10.2016 and without prejudice to the merits of the Writ Petition.

4. I say that as interim relief granted I will remove the tin shed which is standing in my agriculture land bearing Gut No.63/1 within one week.

5. I say that, I will allow the Petitioners to approach their Gut No.64 from disputed road from my Gut No.63/1.

The above contents of this affidavit is true and correct to the best of my knowledge and belief.”

7. The statements made by the Respondent No.1 in paragraphs 4 and 5 are accepted as undertaking to the Court. The unconditional apology by the Respondent No.1 is accepted.

8. The contempt petition is disposed of in view of the unconditional apology tendered by the Respondent No.1 and in view of the statements made in paragraphs 4 and 5 of the affidavit of the Respondent No.1.

(SMT. ANUJA PRABHUDESSAI, J.)