

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

CONTEMPT PETITION NO. 208 OF 2018

1] Vishnu Yashwant Naik

2] Govind Yashwant Naik

3] Balkrishna Yashwant Naik

(Since deceased) Through LRs.

3A. Yogesh Balkrishna Naik

3B. Mangesh Balkrishna Naik

4] Kamlakar Yashwant Naik

5] Narendra Yashwant Naik

6] Anant Yashwant Naik

Nos.1 to 6 R/at Kophrad,
Near Marathi School,
Post – Agashi, Tal. Vasai, Dist. Thane

7] Smt.Pushpa Atmaram Naik

8] Chandrashekhar Atmaram Naik

9] Bhushan Atmaram Naik

Nos.7 to 9 R/at Tushar Bindu
Housing Society, Near Gangadeep Stop,
Juhu, Andheri, Mumbai – 400 049.

... **Petitioners**

V/s.

Hiralal Sonawane,

The Additional Commissioner,
Konkan Division, Old Secretariate Building,
M.G. Road Fort, Mumbai – 400 032.

... **Respondent**

Mr.M.T. Narvekar for Petitioners.
Mr.S.D. Rayrikar, AGP for Respondent.

CORAM : A.S. GADKARI, J.

DATE : 3rd July 2019.

P.C. :

1] By the present Contempt Petition the petitioners have alleged that the respondent has committed contempt of Orders dated 13/02/2015 passed by this Court in Writ Petition No. 2871 of 2014 and Writ Petition No.7869 of 2014.

The relevant para i.e. para No.6 of the said Orders dated 13/02/2015 reads as under :

“Accordingly, the impugned orders are set aside. The petitioners' Revision Application is restored to the file of Additional Commissioner, Konkan Division, Mumbai for fresh decision on merits and in accordance with law.”

2] The record indicates that, in pursuance of the said directions the respondent No.1 again heard the matter on merits and rejected the Revision Application Nos.170 of 2016 by its Order dated 05/06/2017. The record further indicates that the petitioners thereafter preferred

Rectification Application No. 724 of 2017 before the same authority, which has also been rejected by the Respondent by its Order dated 28/11/2017.

3] It is the contention of the learned counsel for the petitioners that, the respondent while deciding the Revision Application has not followed the dictum of this Court and has not decided the matter on merits and in accordance with law. He further submitted that, the Orders passed by this Court have been breached by the respondent and therefore, the proceedings under the Contempt of Courts Act may be initiated against him.

4] A bare perusal of the Order dated 05/06/2017 would indicate that the respondent after scrutinizing the material available on record and after taking into consideration the rival submissions has passed an elaborate and reasoned order. It appears that, the petitioners are having misconceived belief that after remand of the matter by this Court with the aforesaid observations the respondent 'must' pass orders in their favour only and cannot decide the matter in hand as per the provisions of law. It appears to this Court that, as the said Order was not passed in favour of the petitioners, the petitioners are agitated by the

same and are therefore contending that, the respondent has violated the directions issued by this Court. It is the self acquired perception of the petitioners that the said order is not passed as per provisions of law. Till date, no other authority has held so. Even if the petitioners are aggrieved by the Order dated 05/06/2017 passed by the respondent for any reason, then the remedy with the petitioners is to challenge or question the said Order before the higher forum as may be permissible by law, but certainly not by way of Contempt Petition. If the petitioners do not have a case on merits, then they cannot expect that a favourable order will be passed in their favour. At the same time, the petitioners cannot pressurize the respondent to pass an order in their favour only. The contention of the learned counsel for the petitioners noted here-in-above is recorded only for its rejection at its threshold, as it is dehorse of merits. In view of the pleadings advanced by the learned counsel for the petitioners across the bar, it would clearly indicate and a safe inference can be drawn that, the petitioners intend to browbeat the respondent for not granting favourable orders in their favour and decided the application as per the merits and in accordance with law. It appears that, the provisions of the Contempt of Courts Act are being misused by the

petitioners. The practice adopted by the petitioners is hereby deprecated.

5] As noted earlier, the petitioners subsequently filed Rectification Application No. 724 of 2017 before the respondent without there being any provision for the same in the Maharashtra Land Revenue Code, 1966. The respondent by a reasoned Order has rejected the said application also. It appears that the petitioners have been ill advised and have been prompted to file the present Petition, which is *dehors* of any merits and is frivolous.

6] In view of the above, I find no merits in the Petition and the Petition is, accordingly, dismissed in *limine*.

7] It is to be placed on record that, after considering the aforestated facts and the pleadings during the course of arguments, this Court expressed its inclination to impose exemplary costs upon the petitioners. However, at the profused request of the learned counsel for the petitioners, this Court by adopting lenient view, has refrained from imposing the said costs.

[A.S. GADKARI, J.]