

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

CONTEMPT PETITION (L) NO.14093 OF 2019

Shri Madhukar Kamlakar Bhope

... Petitioner

Vs

Smt.Vandana Vasant Gurav & Ors.

... Respondents

Mr.Yatin Malvankar for the Petitioner

Mr.P.G. Sawant, AGP, for Respondent – State

Mr.S.S. Satpute i/b Satpute & Co. for Resp. Nos. 1 & 2

**CORAM: AKIL KURESHI &
S.J. KATHAWALLA, JJ.**

DATED: SEPTEMBER 24, 2019

P.C.:

1. The petitioner has been complaining about non-compliance with the directions of this Court. The petitioner had secured an order from the Mamlatdar under section 5 of the Mamlatdar Courts Act for removal of obstruction on a customary right of way through the lands of the neighbouring agriculturists. The Mamlatdar had provided for removal of such obstruction as well as to keep the road free from obstruction even in future. The case of the petitioner is that this Court had directed the parties to implement

such order. At one stage, the obstruction was removed, thereafter again, the obstruction was created.

2. Respondent No.5 – Tehsildar, Alibag has filed an affidavit in reply dated 16.9.2019 in which it is stated *inter alia* as under:

“6. I say and submit that in view of the above order dated 13.08.2018, passed by the this Hon’ble Court, the Petitioner filed an application dated 10.09.2018 for implementation of the necessary order. Hereto annexed and marked as **EXHIBIT-5** is the copy of said application of the Petitioner dated 10.09.2018.

7. I say that in view of order dated 13.08.2018 passed by this Hon’ble Court and letter dated 10.09.2018 addressed to me by the Petitioner I directed Circle Officer Chaul by my letter dated 22.08.2019 to visit the site and submit a report whether there is any impediment or obstructions on the way. Hereto annexed and marked as **EXHIBIT-6** is a copy of my letter dated 22.08.2019.

8. I say that pursuant to my letter dated 22.08.2019, the Circle Officer, Chaul inspected the site and submitted his report dated 27.08.2019 along with site Panchanama carried on in the presence of Sarpanch of Village Grampanchayat, Kaveer and President of Tantamukti Committee and Members of Grampanchayat Kaveer, Talathi Saja, Bamangao and Respondent No.2. The Circle Officer also submitted statement of Respondent No.2 along with his report. Hereto annexed and marked as **EXHIBIT-7** is a copy of report dated 27.08.2019. In the said report it is mentioned that from the said way bullock cart, vehicles carrying farming equipment and pick up tempo can be passed and there is no obstructions/impediments on the way, however due to rainy season there was uneven soil which can be repaired/plained for smooth running of the vehicles.”

3. Alongwith this affidavit, the report dated 27.8.2019 is produced at Exhibit 7.

4. On the basis of such affidavit in reply, it clearly emerges that obstruction previously created has been removed. There is a passage of 10' wide through which bullock carts, agricultural implements and small vehicles can pass and reach the field of the petitioner. If the petitioner has any other grievances about service of the road, the same cannot be examined in this Contempt Petition.

5. Contempt Petition is disposed of accordingly.

(S.J. KATHAWALLA, J.)

(AKIL KURESHI, J.)