

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO.373 OF 2016**

Mr. Kamruddin Ibrahim Teli .. Petitioner
Versus
The State of Maharashtra & Ors. .. Respondents

Mr. Vaibhav V. Ugle for petitioner.

Mr. R.P. Kadam, AGP for respondent No.1-State.

Mr. Mandar Limaye for respondent Nos.3 and 5.

CORAM : K.K. TATED, J.

DATE : 16 JANUARY 2019.

P.C:-

. Heard learned Counsel for the parties.

2. By this Contempt Petition, petitioner alleged that though there was stay order dated 05.09.2012 passed by 5th Joint Civil Judge, Senior Division, Thane in Regular Civil Suit No.516 of 2008, respondent No.1-Corporation demolished their suit structure. Hence, petitioner filed the present Contempt Petition.

3. The learned Counsel for the petitioner submits that in the present proceedings initially the petitioner filed Regular Civil Suit No.516 of 2008 before the 5th Joint Civil Judge, Senior

Division, Thane. There was an order of injunction restraining respondent No.1-Corporation from taking any action against the petitioner's structure admeasuring 8 x 10 ft. shop No.1, property bearing No.5060714, Opposite Kadar Palace hotel, Kaka Nagar, Kausa, Mumbra Taluka/District Thane.

4. On the other hand learned Counsel appearing on behalf of Corporation submits that respondent original petitioner filed writ petition No.7460 of 2016 before this Court for reconstruction of the said structure. That writ petition was decided by this Court along with other matters by judgment dated 21.06.2018 and directed respondent to reconstruct the said structure. He submits that being aggrieved by the said order they preferred Special Leave Petition before the Supreme Court. He submits that the Apex Court by its order dated 20.08.2018 granted interim relief in respect of reconstruction order passed by this Court. He submits that there is also order passed on 22.10.2018 in said SLP directing respondent-Corporation to file affidavit, stating therein, as to which alternative place they are proposing for allotment to the affected persons. He submits that pursuant to the said order respondents filed their affidavit dated 02.01.2019 in SLP and stated that they are making appropriate

arrangement for alternate accommodation. The said affidavit is placed on record. Same is taken on record and marked 'X' for identification.

5. The learned Counsel for the respondent No.1-Corporation submits that initially they issued allotment letter dated 20.09.2016 in favour of the petitioner in respect of alternate accommodation i.e. Gala No.55 in Ideal Market at Mumbra. He submits that the possession of the said Gala is already taken by the petitioner. Till today petitioner is in possession of the said Gala. He submits that in view of subsequent development, nothing survives in the present writ petition.

6. I heard both the sides at length. It is to be noted that in the present proceedings though the order was passed by the Civil Judge, Senior Division, Thane on 05.09.2012, petitioner has filed writ petition No.7460 of 2016 before this Court for reconstruction of the said property. That writ petition was allowed by this Court and in spite of that petitioner want to press the present Contempt Petition. Not only that Corporation has already filed their affidavit in the Apex Court stating that they have already made alternate arrangement for the affected persons

including the petitioners. In view of these facts, I do not find any reason to take any action against the respondent in the present Contempt Petition.

7. Hence, Contempt Petition stands rejected.

8. No order as to costs.

(K.K.TATED, J.)