

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 629 OF 2014

IN

WRIT PETITION NO. 6294 OF 2014

ATC Telecom Tower Corporation	}	
Private Limited	}	Petitioner
versus		
Mr.Suresh Kakani and Anr.	}	Respondent

WITH

WRIT PETITION NO. 6294 OF 2014

ATC Telecom Tower Corporation	}	
Private Limited	}	Petitioner
versus		
Mira Bhayandar Municipal Corporation	}	
and Ors.	}	Respondent

Mr.Amit Khairwar with Mr.Prasad Dhande
i/b.M/s.D.H.Law Associates for the petitioner.

Mr.N.R.Bubna for respondent nos. 1 to 3.

Mr.B.V.Samant-AGP for State.

CORAM :- S. C. DHARMADHIKARI &
AVINASH G. GHAROTE, JJ.

DATED :- AUGUST 23, 2019

P.C. :-

1. This contempt petition alleges contempt of this court's order and which, according to the petitioner, was clear. This court, in the order passed, copy of which is at pages 18, 20 and 23 of the paper book, according to the petitioner's advocate, issued certain

directions. Contrary to the same, the respondents have acted and thus, there is a violation and breach of the order and directions of this court.

2. The Contempt of Courts Act, 1971 defines “civil contempt” and that phrase is defined in section 2(b) to mean wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court. A contempt petition cannot be brought so as to force the opponent to obey the order when the opponent has a defence or answer for the same. In these circumstances, when the contempt action is brought, merely because in the opinion of the petitioner, there is a disobedience that by itself and without anything more will not enable us to proceed in contempt and hold the opponent or respondent guilty of civil contempt.

3. In these circumstance, the entire contempt petition is misconceived and it is dismissed. It is dismissed all the more because the petitioner’s advocate, on instructions, states that all the sites are functioning.

4. Place the writ petition on 3rd September, 2019.

(AVINASH G. GHAROTE, J.)

(S.C.DHARMADHIKARI, J.)