

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

**CONTEMPT PETITION NO.169 OF 2019
WITH
CIVIL APPLICATION NO.54 OF 2019
IN
CONTEMPT PETITION NO.169 OF 2019**

Gajanan Shankar Rane

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

.....

Mr. Sandip G. Rane for the Applicant/Petitioner.

Mr. R.P. Kadam, AGP for the Respondent Nos.1 to 2.

**CORAM : A.A. SAYED AND
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED: 20th NOVEMBER, 2019.

P.C.:-

The contempt alleged is breach of the order dated 23/1/2019. Paragraphs 6 and 7 of the said order are as follows:-

6. In the instant petitions, instead of taking recourse of section 3H(4) of Act of 1956, the competent authority itself has proceeded to determine the entitlement of the respondents and has drawn a conclusion that, the petitioner has no right, or title in relation to the property. It is not within the domain of the competent authority to deal with the issues which are required to be dealt with by the civil court in view of the provisions of the Act. The order passed by the competent authority is not sustainable and deserves to be set aside and the same is accordingly set aside. The

competent authority- respondent No.4 shall refer the objection/application tendered by the petitioner for adjudication to the principal civil court of original jurisdiction within limits of whose jurisdiction the land is situated. The order impugned in this petition passed by the competent authority is accordingly quashed and set aside and it is directed to the Competent Authority to take necessary steps as expeditiously as possible within six weeks from today. It will be open for the respondents considering the peculiar facts and circumstances of the case to tender application seeking withdrawal of amount. The competent authority shall refer the dispute for adjudication to the court and also transfer the amount of compensation determined under the award to the concerned principal civil court of original jurisdiction.

- 7. It would be open for respondent Nos. 2 and 3 to tender application seeking withdrawal of the amount of compensation which would be deposited with the civil court. In view of peculiar facts of this case, we direct the civil court to permit the concerned respondents i.e. respondents 2 and 3 to withdraw the amount subject to tendering an undertaking to the court to the effect that in the event of success of the objector/petitioner before the civil court, the concerned respondent claimants would deposit the amount in accordance with the directions that would be issued by the civil court while concluding the civil proceedings, together with the amount of interest which shall be computed according to the provisions of Land Acquisition Act, 2013 within a*

period of four months from the date of such determination."

2. We have perused the Affidavit-in-Reply filed by the Respondent No.2-Dr. Vikas Suryawanshi, Competent Authority-Cum-Sub Divisional Officer (Revenue), wherein he has stated in paragraphs 7 to 10 as follows:-

- "7. I say and submit that taking into consideration the order dated 6th December, 2018 passed by this Hon'ble Court the present Respondent fulfills the procedure in respect of making payment to Respondent No.3. The Respondent further submits that during the administrative process the present Respondent completed the payment procedure and deposited the compensation amount by cheque No.612063, dated 22nd January, 2019 in account of Respondent No.3.
8. I say and submit that during the process both the Writ Petition heard by this Hon'ble Court on 23rd January 2019 and both the Writ Petition disposed of with specific direction that the present Respondent transfer the compensation amount to the Principal Civil Court and Respondent No.3 open to tender application seeking withdrawal of amount of compensation by tendering undertaking to the Court.
9. I say and submit that though the above said order passed by this Hon'ble Court on 23/01/2019, the said order was not communicated and/or within the knowledge of present Respondent. The Respondent further submits that the above said order was uploaded on 14th February, 2019. Therefore the present Respondent did not have any specific knowledge of order dated 23rd January, 2019. Therefore, relying on earlier order passed by this Hon'ble Court dated 6th December, 2018 the present Respondent completed the payment procedure with the Respondent No.3, which is legal one and part of procedural aspect.
10. I say and submit that when I received the information letter dated 5th March 2019 of common order dated 23rd January 2019 of this Hon'ble Court in W.P.13133/2018 &

W.P.13134/2018 I followed the order of this Hon'ble Court and I refer the matters and remaining balance amount of compensation to the Principal Civil Court of Original Jurisdiction i.e. Principal District Judge, District Sindhudurg. I further submit that the compensation amount of Rs.5,30,519/- and Rs.42,54,274/- are of other remaining of same writ petition land holders transferred to Principal Civil Court as per the common order dated 23rd January, 2019 of this Hon'ble Court."

(emphasis supplied)

3. In view of the aforesaid statements, we are satisfied that the contempt alleged cannot be said to be a willful act on the part of the Respondent No.3. Hence, we are not inclined to exercise our contempt jurisdiction. We, however, grant liberty to the Petitioner to make appropriate Application before the Reference Court to bring back the amount disbursed and deposit the same in the Reference Court. The Reference Court to pass appropriate orders on the said Application and/or further Applications, if any, for withdrawal of amounts on its own merits and in accordance with law.

4. The Contempt Petition to stand disposed of. The Civil Application does not survive and to stand disposed of.

(ANUJA PRABHUDESSAI, J.)

(A.A. SAYED, J.)

Megha
Parab

Digitally signed
by Megha Parab
Date: 2019.11.26
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