

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

CONTEMPT PETITION NO.573 OF 2013

Mira Bhayandar Municipal Corporation ... Petitioner

Vs

The State of Maharashtra and Ors. ... Respondents

Mr.N.R.Bubna for the Petitioner.

Mr.N.K.Rajpurohit, AGP for the State.

**CORAM :- S. C. DHARMADHIKARI &
G.S.PATEL, JJ.**

DATE :- JULY 4, 2019

P.C. :-

1. We do not think that we should pursue this petition at the instance of the Mira-Bhayandar Municipal Corporation.
2. It is not so helpless and in the given facts and circumstances, the Contempt Petition is but an expression of helplessness and is entirely misconceived.
3. Firstly, a person comes to this Court resisting the demolition notice. Secondly, he gives an undertaking to this Court that at his own cost and charges, he will remove the construction. That the construction is removed by him or by the Municipal Corporation, but in defiance of the undertaking, again

came at the site would not necessarily mean that this is the only remedy. Thus, the Contempt Petition moved in this Court is not a remedy for the statutory authority like the Municipal Corporation. It is fully equipped with statutory powers to deal with the unauthorised developments and illegal constructions within the limits of the Municipal Corporation. It can, therefore, cause a demolition of these structures/buildings. Moreso, if they exist in defiance of the order of this Court. We do not think that the Mira-Bhayandar Municipal Corporation should only pursue a Contempt Petition. It can exercise its power in accordance with law. The Contempt Petition stands disposed of accordingly.

4. We have disposed of this Contempt Petition only by highlighting the fact that the Mira-Bhayandar Municipal Corporation is independently possessed of all powers to deal with the unauthorised construction and illegal developments within its limit. It should, therefore, proceed against the same in accordance with law and the disposal of the Contempt Petition will not preclude or prevent it from exercising its powers in accordance with law.

5. The order dated 24th November, 2015 would continue to the extent that the Court Receiver appointed by this Court shall extend all assistance and co-operation to the Municipal

Corporation for removing the unauthorised construction.

6. We are shocked and surprised at the response of the police machinery.

7. The concerned police station which was approached by this Court through the Bailiff attached to the Court at Thane, namely, Bhayandar Police Station, shall extend full co-operation.

8. It cannot refuse police assistance in the event, it is sought, to evict the unauthorised occupants of the buildings which themselves are illegally constructed. We direct the Senior Police Inspector attached to this Police Station to act on the order passed by this Court in this Contempt Petition.

(G.S.PATEL, J.)

(S.C.DHARMADHIKARI, J.)