

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

CONTEMPT PETITION NO. 10 OF 2017
IN
WRIT PETITION NO. 3092 OF 2016

M. Visvesvaraya Industrial Research and
Development Centre (MVIRDC) and anr. ...Petitioners.

Vs.

State of Maharashtra and ors. ...Respondents.

Mr. Milind Sathe, Sr. Advocate with Ms. Deepa Chavan, Mr. Damodar Desai and Mr. Meit Sampat with Ms. Reshma Nathani I/by Little & Co. for the petitioners.

Mr. Kedar B. Dighe, AGP. for the Respondent-State.

CORAM : R.M.BORDE AND V.L. ACHLIYA, JJ.

DATE : 23rd January, 2019

PC : (Per R. M. Borde, J.)

1. The instant contempt petition is presented urging to take

appropriate action against against respondent Nos. 1 to 3 for committing willful disobedience of the order dated 25.11.2018 passed by this Court.

2 The Respondent No.1, at the relevant time, was District Collector of Mumbai City, whereas respondent Nos. 2 and 3 were the Revenue Officers functioning at Bombay City. The petitioner presented the writ petition bearing No.3092 of 2016 challenging the action taken by respondent No.1, on 24.11.2016 for enforcing recovery of dues. The respondent No.1 initiated action of sealing the premises of the petitioners for enforcing the revenue recovery, which action was necessitated on account of failure of the writ petitioners to pay the Government dues. The action taken by the respondents was a matter of challenge in W.P.No. 3092 of 2016 and the matter was taken up for consideration by the Division Bench of this Court on 25.11.2016 at the concluding hours of the day. This Court directed the

respondents to remove the seal put on the property of the petitioners forthwith. It is alleged that, though the Order was communicated to the respondents immediately, the respondents acted in pursuance to the order and actually removed the seal on 28.11.2016 at 11.15 a.m. It is contended that, in spite of removal of seal, the Police Officials remained posted at the premises until the next date. It is contended that though the respondents were aware of the order passed by this court, they caused deliberate delay in complying with the directions. It is contended that as the result of delay in complying with the directions, the promotional events and business activities, scheduled by the petitioners during the intervening two days, could not take place.

3 It appears from perusal of Para 3(f) of the petition that, the office of the Chairman of Petitioner No.1, Office of the Director (Projects), Office of the Executive Director of the petitioners and

Record Room, which are situated on 19th floor of the WTC were only part under seal and not the whole premises. Though it is contended that whole premises were sealed on three sides, it does not appear to be so on perusal of contents of petition and documents annexed thereto. It is vehemently denied by respondents that whole premises of the World Trade Centre Complex were put under the seal.

4 In pursuant of the notice issued by this Court, all the respondents caused their appearance and presented their respective affidavits. Insofar as respondent No.1 is concerned, at the relevant time, she was functioning as Collector and has passed the order impugned in the petition directing enforcement of the revenue recovery by applying coercive means and sealing the part of the premises. The coercive action was required to be taken as a result

of failure of the petitioners to pay the Government dues. In Para 2

and 3 of the reply presented by respondent No.1, it is stated thus:

“I further state that in paragraph no.8 on page 103 of my affidavit dated 19.4.2017 inadvertently time of receipt of the said letter by office of Collector, Mumbai City is mentioned as 6.30 p.m. whereas actually the said letter was received by the office reception counter where all correspondence is received and acknowledged at 5.55 p.m. on 25.11.2016. I further say that it takes some time for the letter to reach the desk of concerned officer from reception counter.

I say that from the documents already placed on record vide my affidavit dated 19.4.2017 and from the letter dated 25.11.2016 addressed by Learned

Additional . Govt. Pleader to office of Collector Mumbai

City which is annexed to the present affidavit it is evident that, I was not the Collector of Mumbai City as on 25.11.2016 afternoon and in specific the time when the said letter was received by the office of Collector Mumbai City i.e. 5.55 p.m. I say that under orders of State of Maharashtra dated 7.11.2016 I was relieved from by responsibility of Collector Mumbai City on 25.11.2016 and I had already handed over my charge to Mr. Hiralal Sonawane on 25.11.2016 afternoon.”

5 An additional reply has been presented wherein respondent No.1 has reiterated tendering of unconditional apology for the act alleged against her. It is stated that there is no intentional delay on the part of the respondents to comply with the interim directions issued by this Court. It appears that, respondent No.1 was relieved

from the responsibility of the Collector of Mumbai City since evening of 24.11.2016 in view of the order of transfer dated 7.11.2016 issued by the State of Maharashtra. It is further disclosed that the charge was handed over at about 5.30 p.m. on 25.11.2016 to respondent No.2.

6 An affidavit in reply has been presented by respondent No.2 wherein he has stated that on 25.11.2016 he was posted as Additional Commissioner, Kokan Division, Fort, Mumba . He contends that, CTC (Charge Transfer Certificate) was brought to his notice by the office only on 28.11.2016 at 11.00 a.m. for his signatures. It is further stated that even if the Court comes to a conclusion that there is delay in complying with the directions, it was not intentional and he tenders an unconditional apology. He further contends that he was not aware of the order passed by the Court on 25.11.2016 till morning at 11.00 a.m. of 28.11.2016.

7 The respondent No.3 has presented an affidavit wherein it has been stated that he left the premises of World Trade Centre on 25.11.2016 at about 5.10 p.m. According to respondent No.3 letter addressed by AGP was communicated to the dispatch department of Collector's Office after working hours at 5.55 p.m. as can be seen from the document annexed as "document No.1" to the affidavit and the same was brought to his notice for the first time on 28.11.2016 in the morning.

8 It is further stated that, the directions of this Court were complied with on 28.11.2016 at about 11.15 a.m. and the office premises were handed over to the petitioners and the officers present there. It is further contended that, there is no deliberate delay in complying with the order passed by this Court. It is further stated that, even if, the Court comes to the conclusion that the concerned officer is responsible for delay, he tenders unconditional apology.

9 We have perused the affidavits. After hearing the counsel appearing for the petitioners as well as the learned AGP for the State we are of the considered view that, the explanation tendered by the respondents is reasonable and proper. The order has been complied with on 28.11.2016 at about 11.15 a.m. by removing the seal attached to the some part of the premises and it cannot be construed to be deliberate act on the part of the respondents to cause delay in complying with the directions. The alleged omission in removing the seal put to premises diligently may not be construed as deliberate act of defying the orders passed by this court. It appears that the interim order has been passed by this court at the concluding hours of the Court on 25.11.2016 and the same appears to have been communicated, even as per the contempt petitioners, after working hours on the same day, though the contemnors contend that, they came to know about the impugned order dated 25.11.2016 only on

28.11.2016. In fact, next two days i.e. 26.11.2016 and 27.11.2016 being the holidays i.e. Saturday and Sunday, the directions have been complied with on 28.11.2016 at 11.15. a.m. There does not appear to be unreasonable delay in complying with the directions. In the instant petition, the act of compliance of the aforesaid directions on 28.11.2016 cannot be construed as deliberate act necessitating this Court to take penal action against respondents. Apart from this, the original order directing revenue recovery passed against contempt petitioners has not been demonstrated to have been quashed and set aside. The coercive steps were taken against the contempt petitioners to enforce revenue recovery in pursuance to valid order passed by competent officer and, therefore, it cannot be said that even an initial act of respondents was excessive or violative of any provisions of law, unless it is demonstrated that said initial action, itself, was excessive or illegal. The explanation tendered by

respondents is worthy of acceptance. There does not appear to be any deliberate disobedience of orders passed by this Court.

10 The Contempt Petition is devoid of substance and the same stands rejected.

(V.L. ACHLIYA, J.)

(R.M. BORDE, J.)