

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CONTEMPT PETITION No. 136 OF 2019
IN
SECOND APPEAL No. 235 OF 2018

Nagorao Sadashivrao Tikle

VS.

Shri. Ratnakar S/o Khemji Wanjari and anr.

Office Notes, Office Memorandum of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms. Aarti Singh, counsel h/f Mr. Prakash Meghe, counsel for
the petitioner.

Mr. R. S. Sundaram, counsel for the respondent No.1.

Mr. M. R. Joharapurkar, counsel for the respondent No.2.

CORAM :- MANISH PITALE J.

Reserved on :- 15th October 2019

Pronounced on :- 04th November 2019

This contempt petition was filed by the petitioner who is respondent No.1 in the second appeal. It was claimed that the respondent Nos.1 & 2 had committed contempt of this Court by violating undertaking recorded on their behalf in order dated 07.02.2019 passed by this Court in the second appeal. It was claimed that the respondents had categorically stated that no construction was being carried out and that they undertook not to carry out construction till disposal of the appeal. It was claimed by the petitioner that despite such

undertaking, the respondents had indeed undertaken construction, thereby violating the solemn undertaking given to this Court.

(2) Upon notice being issued, the respondents filed their reply affidavit stating that construction had been already undertaken on the plots by respondents No. 1 & 2 after having purchased the plots by a registered sale deed and that after undertaking was given to this Court, only repairs had been carried out and no new construction had been undertaken.

(3) After the said reply was filed on behalf of the respondents, the contempt petition along with second appeal was listed before this Court, when the said contention raised on behalf of the respondents was recorded and an order was passed on 25.09.2019, that it would be in the interest of justice that the second appeal itself was heard on merits and disposed of finally.

(4) Thereafter, the second appeal itself was heard. The second appeal has been allowed by separate judgment and order passed by this Court, whereby, the decree passed by the two Courts below in favour of the petitioner herein has been quashed and set aside. Apart

from this, it is found on the basis of material placed on record that the explanation given by the respondents in this contempt petition that only repair work was being undertaken and no new construction had been made, is reasonable and it is made out in the facts and circumstances of the present case. It is found that undertaking given on behalf of the respondents has not been violated and therefore, the petitioner has failed to make out a case for proceeding against respondents under the provisions of the Contempt of Courts Act, 1971.

(5) In view of above, the present contempt petition is dismissed.

JUDGE

KOLHE