

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE CIVIL JURISDICTION
CONTEMPT PETITION NO. 123 OF 2020

...

Smt. Urmila Prakash Thakur,
Thr. C.A. Shri Saprem P. Thakur
V/S

....PETITIONER

The Municipal Commissioner & Ors.

....RESPONDENTS

...

Mr. B. S. Shukla for Petitioner.
Mr. M.S.Lagu for Respondent No.1.

...

**CORAM : A.A. SAYED &
ABHAY AHUJA, JJ.**

DATED : 14 DECEMBER 2021

P.C.:

On 16 March 2021, the First Court had passed the following order:

“1 The petitioner has alleged wilful and deliberate violation of an order dated December 17, 2019 passed by a co-ordinate bench of this Court while disposing of Contempt Petition No.388 of 2016. The alleged contemnor/respondent has filed an affidavit in reply dated February 09, 2021. Having perused such reply, we are of the prima facie opinion that there has been substantial compliance of the order dated December 17, 2019.

2. However, in respect of certain properties, civil suits/civil appeals are pending before the relevant Courts with interim orders and Mr.Lagu, learned advocate for the alleged contemnor/ respondent, seeks four weeks' time to verify the present status of such proceedings and to revert to this Court.

3. In view thereof, hearing of this contempt petition stands adjourned till April 20, 2021. A further affidavit shall be filed by the alleged contemnor/respondent by the returnable date. We expect him to plead therein that the order dated December 17, 2019 has been fully complied with, except in cases where subsisting interim orders are in operation.”

2. Pursuant to the said order, Affidavit has been filed on 8 December 2021, which reads as follows:

“I, Swapnil Dnyanu Sawant, Assistant Commissioner, of the Mira – Bhaindar Municipal Corporation, do hereby state on solemn affirmation as under:

1. Pursuant to the directions dated 3 February 2021 and 2nd December 2021 issued by this Hon’ble Court, I am filing this affidavit showing detailed chart regarding the action of demolition of structures taken by the Respondent Corporation.

2. The detailed chart regarding the action of demolition of structures is as follows:

i) **Construction of Shri.Austin Joseph Rodricks**

The said illegal and unauthorized construction has already been removed by the Corporation on 16/11/2017. The Petitioner has stated in his Affidavit dated 05/03/2021 that said structures was demolished on 16/11/2017 however it was reconstructed within a week and illegal hoarding was constructed. Pursuant to this contention, it is submitted that the reconstruction of four temporary structures has been removed and demolished by the Corporation on 06/12/2021 however no hoardings were found on this site as alleged by the Petitioner. Hereto annexed and marked as **Exhibit- A** are the copy of Photographs showing the demolition of re-

construction of four temporary structures and the Demolition Report dated 06/12/2021.

ii) **Construction of Bhimabhai Bharvad and Jodhabhai Bharvad**

I say that previously on 16/11/2017 the construction of Ground + 1 floor has already been demolished by the Corporation. At present, the constructions of 3 rooms made up of patra sheet & roof and shed of tabela behind these 3 rooms were demolished by the Corporation on 06/12/2021. Hereto annexed and marked as **Exhibit- B** are the copy of Photographs showing the demolition of temporary structures.

iii) **Construction of Harminder Singh, Amarjit Singh & Sarvinder Singh**

In respect of this construction, Civil Suit being R.C.S. No.800/2014 is pending before the Civil Court of Thane and the Trial court by its order dtd. 21st January 2019 has passed and interim injunction thereby restraining the Corporation from taking action of demolition till disposal of the suit. The said fact has been set out in our earlier Affidavit dated 09/02/2021.

iv) **Construction of Jasmin Tommy & P.J. Tommy**

In respect of this construction, Civil Suit being R.C.S. No.799/2014 is pending before the Civil Court of Thane in which initially an order of status quo was passed against the Corporation. It is submitted that on ascertaining the present status of the civil matter, the Corporation shall take the action of demolition in respect of this structure.

v) **Construction of Jaya Vinod Jain, Ashok Jain & Sureshkumar Jain**

I say that the said structure was already demolished under police protection

on 3rd January 2020. However it appeared that Jaya Vinod Jain, Ashok Jain & Sureshkumar Jain had put barricades around the place which was also removed on 6th December, 2021. Hereto annexed and marked as Exh. C is the copy of photograph showing demolition of barricade.

vi) **Construction of Ashok Doifode**

In respect of this construction, the structure was demolished on 3rd January 2020 however the petitioner has stated in her Affidavit dated 05/03/2021 that it has been reconstructed with Patra sheet wall and patra sheet roof. It is submitted that the said reconstruction of Patra sheet wall and patra sheet roof has been removed by the Corporation on 06/12/2021. Hereto annexed and marked as **Exhibit-D** are the copy of Photographs showing the demolition of re-construction of Patra sheet wall and patra sheet roof.

vii) **Construction of Ramsamuch Roy, Mataprasad Singh & Dayaram Rai**

I say that the construction of Ground + 1 floor adm.3 mtr. X 3 mtr. as specifically mentioned in the notice dated 03/05/2014 issued under Section 260 of MMC Act has already been demolished. I say that again on 4th January 2021 the entire construction were removed by the Corporation under police protection. I say that on 06/12/2021 the Corporation has demolished the construction of bathroom on 06/12/2021. Hereto annexed and marked as **Exhibit-E** are the copy of Photographs showing the demolition.

viii) **Construction of B. S. Mishra**

In respect of this construction, the Civil Suit being R.C.S. No.1021/2014 was pending before the Civil Court of Thane. The said Civil Suit has been dismissed by the Ld.Civil Court of Thane on 30/09/2021. It is submitted that the Corporation undertake to take the action of demolition in respect of this structure.

ix) **Construction of Ramdhavan Magu Yadav**

In respect of this construction, Civil Suit being R.C.S.No.87/2018 is filed before the Civil Court of Thane in which the Ld. Civil Court was pleased to reject the Injunction Application on 12/03/2018. Against this rejection order, Misc. Civil Appeal No.61/2018 has been filed before the Hon'ble District Court of Thane and on 26/11/2021 the Ld.District Court, Thane was pleased to dismiss the said Misc.Civil Appeal No.61/2018. I say that the construction of four rooms made up of bricks has been demolished on 06/12/2021 by the Corporation. Hereto annexed and marked as **Exhibit-F** are the copy of Photographs showing the demolition of construction of Shri.Ramdhavan Yadav.

x) **Construction of Shri. Jaidev Naverkar & Shri. Harishchandra Naverkar**

I say that since the construction of ground floor adm. 7 mtr. X 7 mtr. as specifically stated in the notice dated 03/05/2014 has already been demolished by the Corporation. Therefore no such construction was found during the demolition programme held on 06/12/2021. However, the temporary construction of patra sheet wall was noticed which was demolished on 06/12/2021. Hereto annexed and marked as **Exhibit-G** are the copy of Photographs showing the demolition of construction of patra sheet wall.

xi) **Construction of Santosh Wadkar and Chandrakant Wadkar**

The said illegal and unauthorized construction has already been removed by the Corporation on 16/11/2017.

xii) **Construction of Vinod Chopra, Preeti Chopra & Suman Pratap Gadge**

I say that the said structure has been fully demolished on 4th January 2021. As contended by the Petitioner in her Affidavit dated 05/03/2021, the construction of one room and bathroom has been demolished by the Corporation on 06/12/2021. Hereto annexed and marked as **Exhibit-H** are the copy of Photographs showing the demolition of construction. I say that the aforesaid action of demolition was carried out under the Police protection and demolition squad of the Corporation. I say that several times the Corporation has carried out the demolition of the constructions involved in the Petition however, the occupants of the said constructions are re-constructing the temporary structures therefore the said suit site need to be protected by the Petitioner.

3. I say that what is stated is true and correct to the best of my knowledge, information and belief. I submit, in these circumstances, that the Petition deserves to be dismissed with costs. Nothing in the petition shall be deemed to have been admitted by the Respondent and the Respondent craves leave to file additional affidavit as and when required.”

3. In view of the above, we find that there is substantial compliance of the order dated 17-12-2019.

4. We therefore dispose of the Contempt Petition.

5. If the Petitioner has any grievances in future, it will be open for the Petitioner to make a complaint to the Respondent-Corporation and the Respondent-Corporation shall take appropriate action in accordance with law. It will also be open for the Petitioner to adopt her own proceedings as permissible in law against the alleged unauthorised occupants, which are in her own property.

(ABHAY AHUJA,J.)

(A.A.SAYED, J.)