

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

CONTEMPT PETITION NO. 200 OF 2020
IN
W.P.NO. 6904 OF 2019

**Kalyan Phool Market Vyapari Sanghatana,
 Kalyan & Ors.**

... Petitioners.

VERSUS

**Shri Vijay Suryawanshi, The Commissioner,
 Kalyan-Dombivali Municipal Corporation,
 Kalyan & Ors.**

... Respondents.

Mr. Dilip Bodake, Advocate for the Petitioners.

Mr. A.S. Rao, Advocate for Respondent No. 1-KDMC.

Mrs. R.M. Shinde, AGP for the State.

Mr. Kirit Hakani, Advocate a/with Rahul Hakani & Niyati Hakani for Respondent No.4.

CORAM : A.A.SAYED & S.G.DIGE, JJ.

DATE : AUGUST 13, 2021.

P.C. :

1 This Contempt Petition is filed alleging a breach of the order dated 14th October, 2019 passed in Writ Petition No. 6904 of 2019. In the said Writ Petition, the Petitioners-Union had initially challenged the stop work notice issued by the Respondent Corporation. The Petition was allowed by granting prayer clause (b) (i) and (ii) of the Petition, which reads as follows :

SHALIKRAM
 PRALHADRAO
 BOREY
 Digitally signed
 by SHALIKRAM
 PRALHADRAO
 BOREY
 Date:
 2021.08.21
 11:36:43 +0530

Borey

[b] This Hon'ble Court may be pleased to issue the writ of mandamus or certiorari or any other appropriate writ / direction / order in the nature of writ of mandamus or certiorari under Article 226 of the Constitution of India, 1950, be pleased to;

(i) quash and set aside the impugned letter dated 27.11.2017 bearing outward No. KDMC/NRV/4096 issued by the Assistant Director Town Planning, Kalyan Dombivali Municipal Corporation, Kalyan i.e. Respondent No. 2 herein above;

(ii) quash and set aside the impugned letter dated 15.03.2018 bearing outward No. KDMC/NRV/6186 issued by the Assistant Director Town Planning, Kalyan Dombivali Municipal Corporation, Kalyan i.e. Respondent No. 2 herein above;

2 The stop work notice has thus been set aside by the Division Bench of this Court by order dated 14th October, 2019. The Division Bench by the said order dated 14th October, 2019 further directed that the work shall be carried out in accordance with the terms and conditions of the Commencement Certificate. We find that there is no mandatory direction issued by the Division Bench that the work should be carried out. All that the Division Bench has said that the work shall be carried out strictly in accordance with the terms and conditions of the Commencement Certificate. Thus, in our view, it cannot be said that

there is any breach of any direction contained in the order dated 14th October, 2019.

3 The Contempt Petition is dismissed. It will be open for the Petitioners to take out appropriate proceedings if the work is not carried out in accordance with the Commencement Certificate.

(S.G.DIGE, J.)

(A.A. SAYED, J.)

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