

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

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MALANI

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Date: 2021.11.30
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WRIT PETITION NO. 1190 OF 2020

Shri. Surdas Tukaram Doke

...Petitioner

Versus

The Municipal Corporation of Greater
Mumbai and Ors.

...Respondents

None for the Petitioner.

Mr. Santosh Parad for Respondent – MCGM.

CORAM : PRASANNA B. VARALE &
S.M. MODAK, JJ.

DATE : NOVEMBER 29, 2021.

PER COURT :

1. None for the Petitioner.
2. Perusal of the material placed on record show that Petition was initially circulated before this Court on 21st October, 2021. Then it was adjourned to 29th November, 2021, i.e. today. Today, none appeared for the Petitioner.
3. The Petition filed in this Court under caption Civil Writ Petition and the principal prayer in the Petition which found place at page 9 reads thus:

a. Issue notice to the Respondent calling upon

them as to why the contempt proceeding shall not be initiated against them for having willfully violated order dated 14.11.1959 pronounced by the Hon'ble City Civil Court at Bombay.

4. It is stated in the Petition that the said order of the Civil Court in Suit No. 107/1957 was communicated to the Respondent Nos. 1 to 4 but the said order was purposely with malafide intention was ignored by both the parties.

5. On perusal of the material placed on record it further revealed that the Suit No. 107/1957 instituted in the Court of City Civil was between private parties namely, Pandurang Maruti Varhadi vs. Parubai Tukaram Doke & Surdas Tukaram Doke. We were unable to find any of the Respondents who are party Respondents to this Petition were party to the suit. The suit was decided by the judgment dated 14/11/1959. The copy of the same is placed on record at page 71 to the Petition. The suit was decreed in terms of prayer clause 'a' of the counter-claim. The learned Judge of the City Civil Court further directed defendants to the counter-claim to pay to the plaintiff to the counter-claim costs of the counter-claim.

6. Now on these two counts, firstly the judgment of the learned Judge of the City Civil Court was in a *lis* between two private parties and the suit was accordingly decreed. Admittedly, none of the Respondents to this Petition were party to the original proceedings i.e. suit before the City Civil Court. Secondly, the Petition filed under caption as Civil Writ Petition and proceeds with the principal prayer seeking an action against the Respondents for willful disobedience of order of this Court and thereby committing the Contempt of this Court, in our opinion, is not at all maintainable.

7. On going through the grounds raised in the Petition, we were also unable to find any reason leave aside a satisfactory reason to show that there is a ground for the Petitioner to approach this Court in a Petition filed in the year 2019 wherein the Contempt is alleged of an order passed in the year 1959. Thus, the Petitioner is approaching this Court after a long period of 49 years.

8. Thus, on all these counts, we are unable to persuade ourselves to entertain this Petition. The

Petition, thus, being devoid of any merit and deserves to be dismissed at the threshold and the same is accordingly dismissed.

(S.M. MODAK, J.)

(PRASANNA B. VARALE, J.)