

Vidya Amin

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

**CONTEMPT PETITION NO. 43 OF 2022
IN
CONTEMPT PETITION NO. 60 OF 2021
IN
WRIT PETITION NO. 254 OF 2019**

Pramod Chandrasekhar Dube ... Petitioner

Vs.

Swati Deshpande Kulkarni, Chief Executive
Officer, The Palghar Municipal Council & Ors. ... Respondents

Mr. Abhishek Deshmukh a/w. Mr. Digvijay Palande for the Petitioner.
Mr. B.D. Joshi for Respondent nos. 1 to 4.
Mr. Surel Shah i/b. Mr. Bhushan Walimbe for Respondent no. 5.
Mr. N.K. Rajpurohit, AGP for the State.

**CORAM : NITIN JAMDAR AND
SHARMILA U. DESHMUKH, JJ.**

DATE : 17 November 2022.

P.C.:

On 11 October 2022, following order was passed:

“ *Heard learned counsel for the parties.*

2. The Petitioner is before us contending that Respondent no. 1—Chief officer of Municipal Council, Palghar, has committed contempt of two orders of this Court. First is dated 27 October 2020 and the second is dated 8 December 2021. The order dated 27 October is passed in Writ Petition No.254 of 2020, filed by the Petitioner seeking action in respect of construction of Respondent No.5. This Writ Petition was disposed of with directions to Respondent—Municipal Council to consider the regularisation application/representation of Respondent No.5, and if it is

adverse, Respondent No.5 to take appropriate steps for demolition of the structure in accordance with law. Since, even after rejection of the regularization application, no action was taken, Contempt Petition was filed by both Respondent No.5 and Petitioner. They were disposed of directing the Respondent – Municipal Council, to take a decision.

3. The Petitioner contends that inspite of rejection of regularisation application and inspite of directions of this Court to carry out action of demolition of structure of Respondent No.5, nothing is being done by Respondent No.1, hence, there is a contempt. In this Contempt Petition, an order was passed on 14 June 2022, wherein it was noted that Respondent No.5 has filed an Appeal before the Hon'ble Minister, Urban Development Department, Government of Maharashtra and directions were issued to decide the Appeal within a period of ten weeks. The learned counsel appearing for Respondent No.5 states that the Appeal is not yet decided.

4. We have to be mindful of the fact that the scope of the contempt jurisdiction, as we cannot commence a fresh adjudication and issue orders which were not in contemplation when the original order of which contempt is alleged, was passed. We note that by order dated 27 October 2020, the Division Bench has directed that if regularization application is rejected by Municipal Council, the Municipal Council will take appropriate action of demolition of the structure, as per law. If there is no impediment in law then, Respondent No.1 is under duty to comply with the order. However, in view of the order dated 14 June 2022, we take note of the contention of Respondent No.5 that in the pending Appeal Respondent No.5 will seek necessary interim order.

5. Therefore, while we defer the hearing of this Contempt Petition to 17 November 2022, we put Respondent No.1 to notice that unless there is any interim order passed in the meanwhile in the Appeal, Respondent No.1 is liable to give effect to the order dated 27 October 2020, and failure of Respondent No.1 to do so, would be dealt with under the

contempt jurisdiction of the Court.”

2. Learned counsel for Respondent no. 5 states that since the Hon’ble Minister was not available, Writ Petition No. 13389 of 2022 was preferred by Respondent no. 5, on which notice has been issued by the learned Single Judge and interim order has been granted.

3. From the interim order granting protection to Respondent no. 5, it is obvious that in view of the interim order passed by this Court and if any further interim order is passed in an Appeal, the Respondent-Local Authority will not be able to give effect to the earlier order and therefore, we do not intend to keep the Contempt Petition pending. In spite of vacation of the order, if the Respondent-Statutory Authority does not take any action against Respondent no. 5 within a reasonable period, this Respondent is put to notice that the Contempt proceedings could be revived by the Court upon being so initiated by the Petitioner.

(SHARMILA U. DESHMUKH, J.)

(NITIN JAMDAR, J.)