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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO.218 OF 2021
IN
WRIT PETITION NO.8860 OF 2013

Basamma Bhimappa Agsoor & Ors.] .. Petitioners

vs.

Assistant Municipal Commissioner & Ors.] .. Respondents

Mr.Pravin Sawant for Petitioners.

Ms.Madhavi Tavanandi i/b Mr.Om Suryawanshi for Respondent No.1-MCGM.

Mr.Abhijit Kulkarni, for Respondent Nos. 2 to 5.

Mr.Dhrunil Shah i/b Lex Services for Respondent Nos.7 to 9.

**CORAM : R.D. DHANUKA &
M.G.SEWLIKAR, JJ**

DATE : 21ST JUNE, 2022.

P.C.

1] This Contempt Petition is filed by the Petitioners for wilful default on the part of Respondent Nos.7 to 9 of the order dated 24th January, 2014 and Undertaking dated 22nd January, 2014 filed in Writ Petition No.8860 of 2013.

2] Heard.

3] Perusal of the Consent Terms indicates that the Municipal

Corporation was not a party to the Consent Terms though it was party to Writ Petition No.8860 of 2013. By the said Consent Terms, the Petitioners and Respondent Nos.7 to 9 have agreed to provide permanent alternate accommodation to the Petitioners within the time prescribed and also to pay rent for temporary alternate accommodation till possession of permanent accommodation on ownership basis is handed over to the Petitioners.

4] Respondent Nos.7 to 9 have paid certain amount of rent to the Petitioners for some time. Respondent Nos.7 to 9 have paid additional amount in compliance with the interim orders passed by this Court in this Writ Petition to the Petitioners.

5] Respondent Nos.7 to 9 have refused to pay the balance amount on the ground that the Municipal Corporation has now taken a stand that the structure of the Petitioners is unauthorized. It is the case of Respondent Nos.7 to 9 that since the structure of the Petitioners itself is unauthorized, the question of providing any permanent alternative accommodation to the Petitioners does not arise and consequently the payment of rent for the purpose of obtaining temporary accommodation by the Petitioners also does not arise.

6] It is the case of the Petitioners that the structure which was occupied by them was authorized and thus the Petitioners do not accept the stand of the Municipal corporation that the said structure was unauthorized. The fact remains that the Municipal Corporation was not a party to the said Consent Terms filed between the Petitioners and Respondent Nos.7 to 9. The action independently initiated by the Municipal Corporation will have to be impugned by the Petitioners.

7] In the facts and circumstances of the case, following order is passed :

i] Respondent Nos.7 to 9 are directed to deposit the amount of arrears of rent in this Court within a period of two weeks from today without fail.

ii] The Petitioners shall be informed about the factum of such deposit within a period of one week from the date of deposit.

iii] It is for the Petitioners to decide whether to file any substantive proceedings to prove their rights in the alleged unauthorized structure. If any relief is granted in favour of the Petitioners, in such proceedings, that would be filed by the Petitioners, Petitioners would be at liberty to apply for withdrawal of the amount that would be deposited by Respondent Nos.7 to 9 in this Court.

iv] In such proceedings filed by the Petitioners, the Petitioners would be at liberty to apply for deposit of further amount.

v] Respondent Nos.7 to 9 also would be at liberty to file appropriate proceedings for modification of order or for setting aside of Consent Terms arrived at between the Petitioners and Respondent Nos.7 to 9.

vi] In these circumstances, we do not propose to initiate any action against Respondent Nos.7 to 9 under the provisions of Contempt of Courts Act, 1971 read with Article 215 of the Constitution of India.

vii] Contempt Petition is disposed of in above terms.

[M.G.SEWLIKAR, J]

[R.D.DHANUKA,J]