

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 226 OF 2021
IN
WRIT PETITION NO. 7592 OF 2014.

Ashok Baburao Vade.

...Petitioner.

Versus

Dr. Nitin Kareer and Others.

..Respondents.

Mr. Anoop Patil i/b Vasim Siddiqui for the Petitioner.

Ms. yogita Deshmukh-Chitnis for Respondent Nos.3 and 4.

Mr. A. I. Patel and Ms. R. M. Shinde, AGP for Respondent Nos.1 and 2.

CORAM : PRASANNA B. VARALE &
KISHORE C. SANT, JJ.

Date : **July 20, 2022.**

P. C. :

1. The present contempt petition is filed raising grievance that the Respondents committed the willful disobedience of an order dated 24th August 2015 passed by this Court in Writ Petition No.7592 of 2014 and as such the Respondents have committed contempt of this Court. The grievance raised by the Petitioner in the said writ petition is referred to in the order in its opening part and the same reads thus :

“..... It is the grievance of the Petitioner that encroachment is made on the new extended Gaothan land of Pam village. ...

2. Perusal of writ petition shows that Respondent Nos.1, 3 and 5, i.e., the State Government, the District Collector, Thane District and the Gram Panchayat, Pam through its gram-sevak, to take steps in respect of the alleged encroachment on the new extended goathan land, strictly in accordance with the law and the policies framed and after making proper demarcation.

3. Though in the writ petition the directions were issued to Respondent Nos.1, 3 and 5, in the contempt petition Sarpanch is added as Respondent no.3. The Sarpanch in charge of village Pam was party Respondent no.6 in the said writ petition, but no directions were issued to Respondent No.6 Sarpanch – Kunal Prabhakar Pimple. In the present contempt petition, one Prabhakar Bhalchandra Pimple is made party as Respondent No. 3. When there was no direction to Respondent No.6 in original writ petition and when original Respondent no.6 was Kunal Prabhakar Pimple to the writ petition, why Prabhakar Bhalchandra Pimple is added as party Respondent to the present contempt petition is not at all explained by the petitioner. That being the position, by the order dated 26th April 2022, the contempt petition has been dismissed *qua* Respondent No.3.

4. It seems that in response to the contempt petition, a compliance affidavit on behalf of Respondent Nos.1 and 2 is filed through one Dr. Manik Gursal, Collector, Palghar, District : Palghar. It may not be necessary for us to refer to the statements in paragraph nos.1 to 3 made in the compliance affidavit as they only refer to the permission granted to Dr. Manik Gursal for filing affidavit on behalf of the Respondent-State and for placing on record the steps taken by Respondent Nos.1 and 2 after passing the order dated 24th August 2015 by this Court in writ petition. However, it would be necessary for us to refer to the statements made in paragraph 4 and 5 of the said compliance affidavit, which read thus :

“4. I say that the Respondent no.2 directed the Tahsildar, Palghar to take necessary steps on his behalf in view of speedy compliance of order dated 24-08-2015 and place report of action before the present Respondent. Hence the Tahsildar, Palghar had given Notice of Demolition to the encroachers on 19/05/2022, in respect of the Demolition scheduled on 26/05/2022 at 10:00 a.m. I say that, after issuing the notice of demolition on 19/05/2022, the Encroachers had filed their reply before Tahsildar, Palghar which was decided and rejected by Tahsildar, Palghar on 25/05/2022 and was not challenged by the Encroachers. Thereafter Tahsildar, Palghar applied for Police Protection on 25/05/2022 and the entire illegal structure of the Encroachers was demolished on 26/05/2022 at 10:00 a.m, and the Panchnama to that effect was drawn on spot itself. Hereto annexed and marked **Exhibit -1** is the copy of the said notice of demolition dated 19/05/2022 and Exhibit 2 is the copy of

said police protection applied by Tahsildar Palghar, on 25/05/2022 and **Exhibit-3** is the copy of the Panchanama of demolition dated 26/05/2022.

5. I say that, the Tahsildar, Palghar had given sufficient time and opportunity of being heard to the Encroachers and Tahsildar, Palghar has demolished the illegal structure of the Encroachers by following the due process of law and taken lawful possession of the encroached land and handed over to the Gramsevak i.e. Respondent no.4, of Gram Panchayat, Village Pam, Dist. Palghar. Hereto annexed and marked **Exhibit - 4** is the copy of the Receipt of Possession dated 26/05/2022.”

5. The copy of notice issued to the encroachers is annexed to the compliance affidavit at Exhibit-1. Then, there is communication forwarded to the Satpati Police Station, dated 25th May 2022 whereby the concerned police officer was informed to provide necessary assistance by deploying the sufficient police personnel. Then copy of panchnama drawn of removal of encroachment is annexed. The said panchnama is drawn in the presence of circle officer, Tarapur, taluka and district Palghar. Copy of possession receipt is at Exhibit-D.

6. The communications referred to above have made mention of the concerned place as Sarkari Gurucharan, Survey No.160 situated at village Pam. The perusal of the order dated 24th August 2015 shows that there was

no stipulation of period. However, since no steps were taken for a considerable period after the order dated 24th August 2015 was passed, the Petitioner filed the present contempt petition on 8th March 2021. Thus, it can be seen that though there is some delay in taking steps by the respondents, now all the necessary steps have been taken by the respondents and the order of this Court dated 24th August 2015 is duly complied with. Accordingly, the contempt petition is disposed of.

7. In view of the disposal of contempt petition, no orders are required to be passed on pending applications. All pending applications are accordingly disposed of.

[Kishore C. Sant, J.]

[Prasanna B. Varale, J.]