

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 402 OF 2022

Ganesh S/o. Mahadeo Gadekar. ... Petitioner.
V/s.
The State of Maharashtra and others. ... Respondents.

Mr.Laxmikant Shrimangale for the Petitioner.
Mr.V.S.Gokhale, 'B' Panel Counsel for the State.
Mr.Sandeep Bhupat Satkar for Respondent No.4.

SANJAY
KASHINATH
NANOSKAR

Digitally signed by
SANJAY KASHINATH
NANOSKAR
Date: 2022.10.21
18:31:58 +0530

CORAM : NITIN JAMDAR AND
SHARMILA U. DESHMUKH, JJ.
DATE : 18 October 2022.

P.C. :

This contempt petition is filed making a grievance that Respondent Nos.2 and 3 be punished for the contempt of Court for disobedience of the orders passed on 15 February 2022 and 14 December 2021.

2. The Petitioner had filed a writ petition No.9440/2019 in this Court, which came up before the Division Bench and the Division Bench after hearing the Petitioner and the learned counsel for the State, by order dated 14 December 2021 disposed of the writ petition simplicitor directing to the Tahasildar to implement his own order dated 10 April 2017.

3. The order dated 10 April 2017 passed by the Tahasildar was in respect of demolition of structure of Respondent No.4. The order dated 14 December 2021 does not show presence of Respondent No.4. It is an admitted position that Respondent No.4 was not represented when the order dated 14 December 2021 was passed. Thereafter a contempt petition No.76/2022 was filed by the Petitioner wherein an order was passed on 15 February 2022. By the said order, the Collector was directed to give hearing to the Petitioner and also to Respondent No.4, who had sought to be intervened, and then to pass necessary orders.

4. The learned counsel for the State has pointed out that the Collector, thereafter, held a hearing and has in detail noted the rival contentions and thereafter has taken a decision to take opinion from the Assistant Director of Town Planning within fifteen days in respect of the construction permission applied for by Respondent No.4. The learned counsel for the Petitioner states that the order passed by the Collector is not in accordance with the orders passed by this Court.

5. The first order dated 14 December 2021 passed by this Court is a simplicitor direction the the Tahasildar to implement his own order. By way of order dated 15 February 2022 passed in Contempt Petition No.76/2022, the original order was deviated from and a fresh direction was issued when it was pointed out that

adjudication of *inter-se* contentions would be and the contentions of Respondent No.4 will have to be heard. By that order, all that the Division Bench has done is to direct hearing to be given to the Petitioner and Respondent No.4 and to pass a speaking order. What order the Collector should pass is not indicated in the order dated 15 February 2022.

6. Considering the fact that no adjudication on merits has taken place either while disposing of the writ petition or the contempt petition, it was open to the Collector to take such view as the Collector thought fit in the facts and circumstances. The Collector has taken a view, which according to him is legal and therefore this does not amount to contempt. It is open the parties, if they are aggrieved by the order passed by the Collector, to take appropriate steps as per law.

7. With the above observations, the contempt petition is disposed of .

(SHARMILA U. DESHMUKH, J.)

(NITIN JAMDAR, J.)