

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 354 OF 2022

Bhiva Kashinath Mhatre

..... Petitioner

VERSUS

State of Maharashtra & Ors.

..... Respondents

Mr.Shardul Singh, a/w. Mr.Indris M.Vohra, i/b. Legale Affaires for the Petitioner.

Mr.J.G.Reddy for the Respondent no.2 – Corporation.

Mr.A.A.Alaspurkar, A.G.P. for the Respondent no.1 – State.

Mr.Jitendra G.Madhavi, Ward Officer, ‘A’ Ward, Panvel Municipal Corporation present.

**CORAM: R. D. DHANUKA AND
MADHAV J.JAMDAR, JJ.
DATE : 14th JUNE, 2022**

P.C:-

The papers are allowed to be produced at 2.30 p.m.

2. By this petition filed by the petitioner, the petitioner seeks initiating of the action under the provisions of Contempt of Courts Act, 1971, alleging wilful disobedience of the order dated 28th September, 2021 passed by the Division Bench of this Court in Writ Petition No.

3762 of 2021 and more particularly paragraph (5) thereof.

3. Mr. Singh, learned counsel for the petitioner invited our attention to paragraph (5) of the said order and also the notice dated 9th May, 2022 annexed at Ex.D to the petition and would submit that the respondent has threatened to take possession of the property of the petitioner illegally and thus an appropriate action under the provisions of the Contempt of Courts Act, 1971 be initiated against the officer of the respondent.

4. Learned A.G.P. for the respondent no.1 on instructions from the officer who is present in court on the other hand submits that the authority has not taken any forcible possession of the petitioner's property nor has proposed to take any forcible possession. The authority has entered into the plot of the petitioner by issuing notice under sections 162 and 172 of the Maharashtra Municipal Corporation Act for the purpose of digging a road to avoid any water logging during the period of monsoon. Learned counsel on instruction states that there would be limited digging for the purpose of constructing a Nala and the said work would be over within next 2 – 3 days. After such work is

over, the officers of the respondent would remove themselves from the plot of the petitioner. Statement is accepted.

5. We have perused the directions issued by this Court in paragraph (5) of the said order dated 28th September, 2021 which does not prohibit the authority to carry out any construction of Nala for the limited purpose by invoking the provisions of section 162 read with section 174 of the Maharashtra Municipal Corporation Act. The said work proposed to be carried out is of the temporary nature and would be completed shortly. We record the statement made by the learned A.G.P. for the respondents that neither forcible possession is taken nor would be taken of the property of the petitioner. As soon as the work of the respondent for constructing a Nala for the limited purpose is completed, the respondent no.1 would vacate the property of the petitioner.

6. In our view, the respondents have not committed any contempt of the order dated 28th September, 2021 passed by this Court in Writ Petition No. 3769 of 2021.

7. Contempt petition is devoid of merits and is accordingly dismissed. There shall be no order as to costs.

[MADHAV J. JAMDAR, J.]

[R. D. DHANUKA, J.]