

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO. 9 OF 2022**

Late Ambu Jayram Shinde
through legal heirs,
Shri Ananda Ambu Shinde ... Petitioner

Versus

Uttam Patil, The Deputy Collector & Ors. ... Respondents

**WITH
CONTEMPT PETITION NO. 10 OF 2022**

Late Dhondu Gahina Pokharkar
through legal heirs,
Ramdas Yashvant Pokharkar ... Petitioner

Versus

Uttam Patil, The Deputy Collector & Ors. ... Respondents

**WITH
CONTEMPT PETITION NO. 11 OF 2022**

Ramchandra Sahadu Chowdhari ... Petitioner

Versus

Uttam Patil, The Deputy Collector & Ors. ... Respondents

**WITH
CONTEMPT PETITION NO. 12 OF 2022**

Dnyaneshwar Laxman Shete ... Petitioner

Versus

Uttam Patil, The Deputy Collector & Ors. ... Respondents

.....
Mr. Sanjiv Sawant i/b. Mr. Abhishek P. Deshmukh with Mr.Digvijay
Palande for the Petitioner in all Contempt Petitions.

Mr. A.I. Patel, Addl. GP with Ms M.S. Bane, AGP for the State.

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

DATED : 8 SEPTEMBER 2022

ORAL JUDGMENT (Per: Nitin Jamdar, J.)

The Petitioners are seeking an action against the Respondent No.1 -
The Deputy Collector, Rehabilitation, Pune for committing contempt of
the order dated 5 November 2019 passed in Writ Petition No. 10997 of
2019 and other connected petitions and the order dated 14 January 2021
passed in Contempt Petition (St.) No. 97020 of 2020.

2. By the order dated 13 January 2022, notice was directed to be issued
against the Respondent No.1 under the provisions of the Contempt of
Courts Act, 1971, read with Article 215 of the Constitution of India.
Affidavit is filed by the Respondent No.1 in reply to the contempt notice.
The contempt petitions are taken up for hearing.

3. Foremost, we must keep in mind the scope of contempt jurisdiction
which we are called upon to exercise. It is settled that under contempt
jurisdiction, the Court does not embark upon adjudicating fresh rights of

the parties and this jurisdiction is to ensure that the majesty of the court process is upheld. Contempt power is not to be used casually, and the aggrieved party cannot insist that the court exercise contempt jurisdiction as contempt is between a contemner and the court. Further, once the Court takes cognizance, it becomes the matter between the Court and the Contemnors and the Petitioners cannot insist of passing the order in favour of the Petitioners by a fresh adjudication.

4. By the order dated 5 November 2019, the Division Bench of this Court disposed of a group of petitions referring to the order passed in Writ Petition (St.) No. 21038 of 2018 and directing that the similar order would follow in respect of the present petitions. The Division Bench had directed the Deputy Collector (Resettlement), Pune to examine the cases of the project affected persons. The Petitioners were to appear before the Deputy Collector (Resettlement) and produce necessary documents. The Deputy Collector (Resettlement) was to pass an order as expeditiously as possible. Thereafter, if the Deputy Collector (Resettlement) was to uphold entitlement, he was directed to take further steps within six months from the date of decision following the provisions of the Maharashtra Project Affected Persons Rehabilitation Act, 1999 (the Act). Since this was not done within time, the Contempt Petition (St.) No. 97020 of 2020 was moved. The Division Bench disposed of the contempt petition on 14 January 2021 as the Respondent No.1 tendered unconditional apology. The reason for delay was given as prevailing pandemic situation and the

elections. The apology was accepted that the order would be complied within eight weeks. Thereafter with delay an order is passed by Respondent No.1.

5. The present contempt petitions are filed on two counts. One, that the order was not complied within the time stipulated in the order dated 14 January 2021 and second, that after the decision was taken by the Deputy Collector of upholding entitlement, the lands which were offered to the Petitioners, are not suitable.

6. Regarding the delay, we have to take note of the situation brought by the prevalent pandemic. Respondent No.1 has stated that more than two thousand applications were made for allotment, which is a substantial task consuming time. Therefore, we find that there is a reasonable explanation for the delay.

7. According to the Petitioners, the decision now taken is incorrect and unsuitable land is being allotted, not the one the petitioners have asked for. According to Respondent No.1, the decision is as per law. In the reply affidavit filed by the Respondent No.1, he has stated that the Petitioners have given choice of the lands that can be allotted to them, however, the Respondent No.1 has referred to the legal position that project affected person cannot insist that a particular land be allotted to him. In the affidavit, he has given details of the applications made and the Petitioners'

claims for a particular land. The Respondent No.1 has also referred to Section 15 of the Act stating that it is obligatory on the authority to formulate a scheme of allotment. Respondent No.1 has stated that the Petitioners are claiming lands outside the scheme and if these demands are acceded to, it will upset the order of allotment of the lands. The Respondent No.1 has shown willingness to allot any suitable land as per demand of the Petitioners but within the scheme. This stand is reiterated before us by the learned Addl. GP. The Respondent No.1 has made a grievance that the Petitioners by taking advantage of the contempt proceedings are pressurizing Respondent No.1 to get something to which they are not entitled in law and never granted by the Court.

8. What emerges before us is a debate about the order passed by the Respondent No.1 after this Court has directed him to take a decision. The correctness or otherwise of the order and the issues that are raised before us were never part of the adjudication in the order passed in the writ petition. What the petitioners seek is adjudication of new issues not covered by the original order passed in the writ petition. In this context, the parameters of the contempt jurisdiction laid down by the Hon'ble Supreme Court will have to be noted. In the case of *Jhaleswar Prasad Paul v. Tarak Nath Ganguly*, (2002) 5 SCC 352, the Hon'ble Supreme Court observed thus:

“11. The purpose of contempt jurisdiction is to uphold the majesty and dignity of the courts of law, since the respect and authority commanded by the courts of law are the greatest guarantee to an ordinary citizen and the

democratic fabric of society will suffer if respect for the judiciary is undermined. The Contempt of Courts Act, 1971 has been introduced under the statute for the purpose of securing the feeling of confidence of the people in general for true and proper administration of justice in the country. The power to punish for contempt of court is a special power vested under the Constitution in the courts of record and also under the statute. The power is special and needs to be exercised with care and caution. It should be used sparingly by the courts to be satisfied regarding the true effect of contemptuous conduct. It is to be kept in mind that the court exercising the jurisdiction to punish for contempt does not function as an original or appellate court for determination of the disputes between the parties. The contempt jurisdiction should be confined to the question whether there has been any deliberate disobedience of the order of the court and if the conduct of the party who is alleged to have committed such disobedience is contumacious. The court exercising contempt jurisdiction is not entitled to enter into questions which have not been dealt with and decided in the judgment or order, violation of which is alleged by the applicant. The court has to consider the direction issued in the judgment or order and not to consider the question as to what the judgment or order should have contained. At the cost of repetition, be it stated here that the court exercising contempt jurisdiction is primarily concerned with the question of contumacious conduct of the party, which is alleged to have committed deliberate default in complying with the directions in the judgment or order. If the judgment or order does not contain any specific direction regarding a matter or if there is any ambiguity in the directions issued therein then it will be better to direct the parties to approach the court which disposed of the matter for clarification of the

order instead of the court exercising contempt jurisdiction taking upon itself the power to decide the original proceeding in a manner not dealt with by the court passing the judgment or order. If this limitation is borne in mind, then criticisms which are sometimes levelled against the courts exercising contempt of court jurisdiction “that it has exceeded its powers in granting substantive relief and issuing a direction regarding the same without proper adjudication of the dispute” in its entirety can be avoided. This will also avoid multiplicity of proceedings because the party which is prejudicially affected by the judgment or order passed in the contempt proceeding and granting relief and issuing fresh directions is likely to challenge that order and that may give rise to another round of litigation arising from a proceeding which is intended to maintain the majesty and image of courts.

(emphasis supplied)

This legal position was reiterated in the case *Sudhir Vasudeva v. M. George Ravishekar*, (2014) 3 SCC 373 where the Hon’ble Supreme Court held as follows :

“19. The power vested in the High Courts as well as this Court to punish for contempt is a special and rare power available both under the Constitution as well as the Contempt of Courts Act, 1971. It is a drastic power which, if misdirected, could even curb the liberty of the individual charged with commission of contempt. The very nature of the power casts a sacred duty in the Courts to exercise the same with the greatest of care and caution. This is also necessary as, more often than not, adjudication of a contempt plea involves a process of self-

determination of the sweep, meaning and effect of the order in respect of which disobedience is alleged. The Courts must not, therefore, travel beyond the four corners of the order which is alleged to have been flouted or enter into questions that have not been dealt with or decided in the judgment or the order violation of which is alleged. Only such directions which are explicit in a judgment or order or are plainly self-evident ought to be taken into account for the purpose of consideration as to whether there has been any disobedience or wilful violation of the same. Decided issues cannot be reopened; nor can the plea of equities be considered. The Courts must also ensure that while considering a contempt plea the power available to the Court in other corrective jurisdictions like review or appeal is not trenched upon. No order or direction supplemental to what has been already expressed should be issued by the Court while exercising jurisdiction in the domain of the contempt law; such an exercise is more appropriate in other jurisdictions vested in the Court, as noticed above. The above principles would appear to be the cumulative outcome of the precedents cited at the Bar, namely, Jhareswar Prasad Paul v. Tarak Nath Ganguly [(2002) 5 SCC 352 : 2002 SCC (L&S) 703] , V.M. Manohar Prasad v. N. Ratnam Raju [(2004) 13 SCC 610 : 2006 SCC (L&S) 907] , Bihar Finance Service House Construction Coop. Society Ltd. v. Gautam Goswami [(2008) 5 SCC 339] and Union of India v. Subedar Devassy PV [(2006) 1 SCC 613]”.

(emphasis supplied)

9. The pronouncement of law in the above decisions is unequivocal. Therefore the petitioner cannot use the contempt proceedings to secure

something which was not adjudicated upon by this court while disposing of the Writ Petition. Therefore, if the lands which are allotted to the Petitioners are not suitable, it is always open to the Petitioners to adopt an appropriate remedy where this issue can be decided.

10. Accordingly, the Contempt Petitions are disposed of. Notice issued to Respondent No.1 is discharged.

11. If the Petitioners file the proceedings as above, the same will be considered on its own merits. The observations made above regarding the stand of Respondent No.1 is not to be construed as approving the stand of the Respondent No.1 but only in the context of exercise of the contempt jurisdiction.

(SHARMILA U. DESHMUKH,J.)

(NITIN JAMDAR, J.)

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