

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CONTEMPT PETITION NO. 267 OF 2018
IN PUBLIC INTEREST LITIGATION NO.107 OF 2015
 (Namdeo Sheshrao Sarap vs. Mr. Astik Kumar Pandey and another)

Office Notes, Office Memoranda of
 Coram, appearances, Court's orders Court's or Judge's orders
 or directions and Registrar's orders.

Shri A.R. Deshpande, Advocate for petitioner.
 Shri D.P. Thakare, Additional Government Pleader for
 respondent no.1.

CORAM : A.S. CHANDURKAR AND URMILA JOSHI-PHALKE, JJ.
DATED : AUGUST 3, 2022

Public Interest Litigation No.107/2015 was decided
 on 23/8/2017 wherein following directions were issued :

*“In this situation, we direct the
 respondent no.4 Collector to take necessary steps to
 find out correct width of road and to determine
 whether there is any encroachment on it.
 Obviously, the exercise shall be done with due
 opportunity to all concerned including the alleged
 encroachers.*

*The exercise shall be completed in four
 months from today and if any encroachment is
 noticed, respondent no.4 and respondent no.3
 Gram Panchayat shall initiate necessary steps and
 remove encroachment as per law in next two
 months.”*

Since aforesaid directions were not being complied with, the
 present contempt petition has been filed.

2) According to the petitioner, it was necessary for the

Collector to determine the width of the road and whether there was any encroachment. After notice was issued in the contempt petition, the Collector heard the parties on 16/11/2018 and prepared his report. As per the said report, width of the road passing through goathan area was 80 feet. Thereafter it was found that encroachment existing was liable to be removed and the Gram Panchayat, Kanheri Sarap issued a notice to the encroachers. It was, however, brought to the notice that in view of the interim order passed in Writ Petition No.2398/2018, the encroachment could not be removed.

3) Today Shri Deshpande, learned Counsel for the petitioner, submits that the aforesaid writ petition was withdrawn on 3/10/2019 and hence, the legal impediment due to which the encroachment could not be removed has now ceased to exist.

4) In view of aforesaid, we find that the Collector by his report dated 16/11/2018 has noted that the width of the road is 80 feet. The encroachment could not be removed on account of interim orders passed in Writ Petition No.2398/2018. Since that writ petition has been withdrawn, the Collector would be required to proceed further in accordance with the report dated 16/11/2018. Since this Court in Public Interest Litigation No.107/2015 has directed the Gram Panchayat to take necessary steps to remove the encroachment, it is required to act accordingly as per those directions. The Collector in terms of his report dated

16/11/2018 shall oversee the aspect of removal of encroachment and act in accordance with the directions issued in Public Interest Litigation No.107/2015. Needless to state that the time-line prescribed in the order dated 23/8/2017 shall be observed commencing from today. With these observations, the contempt proceedings are disposed of. No costs.

JUDGE

JUDGE

khj