

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**901 CIVIL APPLICATION NO.7988 OF 2023
IN CP/627/2022**

RAJENDRA SUDHAKARRAO NITURKAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS

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Mr. V.C. Solshe, Advocate for the applicant.

Mr. B.V. Virdhe, A.G.P. for respondent Nos. 1 to 3.

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CORAM : SANDIPKUMAR C. MORE, J.

DATED : 4th July 2023.

ORDER:-

1. Heard rival submissions. It appears that this Court, under order dated 07.12.2021, had directed the present respondent No.4 to decide Proceeding No. 2018/ROR/KV/229 and the Proceeding No. 2016/INAM/CR/147 within the period of three months. However, the same were not decided in the prescribed time limit, and therefore, the petitioner had filed Contempt Petition No. 627 of 2022. This Court, vide order dated 22.12.2022, has already disposed of the aforesaid contempt petition by accepting the apology from the learned A.G.P. on behalf of respondent No.4, who had decided the aforesaid matters vide judgment dated 14.12.2022 i.e. subsequent to the direction given by this court on 07.12.2021.

2. The learned Counsel for the petitioner is seeking restoration of the aforesaid contempt petition on the ground that vide order dated 14.12.2022, the respondent No.4 did not decide the matter as directed by this Court, but kept the same in abeyance till declaration of heirs of original Inamdar from competent Civil Court and for filing such heirship certificate. The learned Counsel for the petitioner pointed out that the said order dated 14.12.2022 was challenged before the Collector, Latur in Proceeding No. 2022/Bhusudhar/CR-02 and the same was set aside on 10.02.2023 with direction to respondent No.4 to decide the matter afresh and on merit within the period of three months from the date of receipt of that order. Thus, the learned Counsel for the petitioner submitted that the respondent No.4 did not decide the matter as directed by this Court, but kept in abeyance as mentioned above.

3. The learned A.G.P. for respondent No.4 submits that the respondent No. 4 had in fact found requirement of heirship certificate from the competent Civil Court for which she was not having jurisdiction. Thus, he suggested that the respondent No.4 had anyhow decided the matter as per the order of this Court. It was another aspect that the same was challenged by the petitioner before the superior Authority i.e.

Collector, Latur. Therefore, it cannot be said that the direction of this Court vide order dated 07.12.2021 are not complied by respondent No.4.

4. It is significant to note that this Court, vide order dated 22.12.2022 while disposing the contempt petition by accepting apology on behalf of respondent No.4, has also observed that though the direction of this Court to decide the aforesaid matter was not followed within the time, but somehow it was decided belatedly as per her own finding. The finding of respondent No.4 under order dated 14.12.2022 might have been set aside by the learned Collector, Latur, but the fresh directions are already given to respondent No.4 for fresh decision of the matter within three months. Thus, it appears that, rightly or wrongly the respondent No.4 has decided the matter as directed by this Court as per her wisdom and therefore, it cannot be said that she failed in complying the order of this Court dated 07.12.2021. Therefore, I do not find any substance in this application for restoration of the contempt petition. In view of the same, the application stands rejected.

(SANDIPKUMAR C. MORE, J.)