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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 381 OF 2023
AND
WRIT PETITION NO. 2107 OF 2022**

Ratnamala Krishnakant Bhosale and Others ... Petitioners

vs.

Chief Executive Officer Khandala Nagar ... Respondents
Panchayat and Others

**WITH
CONTEMPT PETITION NO. 92 OF 2022**

Ku. Dipali Marutrao Deshmukh (Gadhawe) ... Petitioner

vs.

State of Maharashtra through G.P. AS High ... Respondent
Court, Bombay

Mr. Sumit V. Khaire for the Petitioner in CP/92/2022.

Mr. Surel S. Shah i/b. Mr. D. D. Rananaware for the Petitioners in
WP/381/2023 and WP/2107/2022.

Mr. S. M. Kamble for Respondent No. 2 in CP/92/2022 and for
Respondent Nos. 1 and 2 in WP/2107/2022.

Ms. Sushma S. Bhende, AGP for Respondent No. 3 in
WP/381/2023, for Respondent No. 3 in WP/2107/2022 and for
Respondent Nos. 1 and 2 in WP/381/2023.

**CORAM : R. D. DHANUKA &
GAURI GODSE, JJ.
DATED : 25 APRIL, 2023**

P.C. :-

Writ Petition No. 2107 of 2022

1. During the course of arguments Mr. Shah learned counsel for the Petitioners invited our attention to the report by the Chief Executive Officer, Khandala Nagar Panchayat submitted by Respondent No. 5. The Nagar Panchayat Khandala- Respondent No. 2 is recommending regularization of part of the structures and recommending demolition of the remaining structures. Based on the said report of Respondent No. 2 – Khandala Nagar Panchayat has passed order on 13th September 2022 directing the Petitioner to remove the unauthorised construction. Copy of the said order is tendered across the bar by the learned counsel for Respondent No. 1 to the learned counsel for the Petitioners.

2. In pursuance to the liberty granted by this Court by order dated 28th June 2022 in Writ Petition No. 2107 of 2022 and Contempt Petition No. 92 of 2022, and in view of the order passed by Respondent No. 2 and in furtherance of the report submitted by

Respondent No. 5, Mr. Shah learned counsel for the Petitioners seek liberty to carry out amendment so as to place the said impugned report as well as order dated 13th September 2022 on record and to challenge the same. Leave is granted, as prayed. Amendment to be carried out within one week from today. Amendment to be carried out in the copies supplied to the Respondents also.

3. We are informed that there is an oral understanding between the Petitioners and Respondent No. 2 that the offending structure will not be demolished. In view of the said oral understanding aforesaid structure has not been demolished by Respondent No. 2- Nagar Panchayat, Khandala.

4. Respondents would be at liberty to file Affidavit in Reply to the amended Petition within four weeks from Petitioner carrying out amendment in their respective copies and copy to be served upon the Petitioner's Advocate simultaneously. Rejoinder, if any, to be filed within two weeks thereafter.

5. Oral understanding between the Petitioner and Respondent No. 3 not to demolish the offending structure will continue till the next date.

Writ Petition No. 381 of 2023

1. Mr. Shah learned counsel for the Petitioner on instructions seeks leave to withdraw this Petition to pursue Writ Petition No. 2107 of 2022.
2. Writ Petition is disposed of as withdrawn with liberty to pursue Writ Petition No. 2107 of 2022.

Contempt Petition No. 92 of 2022

1. The Contempt Petition is filed inter alia praying for appropriate action against the Respondent No. 2 under the Contempt of Court Act, 1971 for alleged wilful disobedience of the order dated 6th July 2021 passed in Writ Petition No. 11934 of 2018.
2. We have perused the order dated 28th June, 2022 by the Division Bench of this Court in Writ Petition No. 2107 of 2022 and Contempt Petition No. 92 of 2022. This Court directed Respondent No. 5 to submit report in response to communication dated 28th April 2022 and reminder dated 2nd June 2022 as early as possible and not later than three weeks from the date of the said order.
3. It is common ground that in pursuance of the said order

dated 28th June 2022, Respondent No. 5 has already submitted report and based on the said report submitted by Respondent No. 5, Respondent No. 2-Nagar Panchayat Khandala has passed an order for demolition of part of the offending structure. In our view, Respondent No. 2 has already initiated action. This is subject matter of Writ Petition No. 2107 of 2022.

4. In view of the fact that impugned action is subject matter of Writ Petition No. 2107 of 2022, in our view nothing survives in the Contempt Petition No. 92 of 2022 and the same is accordingly dismissed.

(GAURI GODSE, J.)

(R. D. DHANUKA, J.)