

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO.444 OF 2022
IN
WRIT PETITION NO.10390 OF 2016

ANJALI
TUSHAR
ASWALE

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Date: 2023.10.26
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Shri Sanjay M. Bhide

..Petitioner

Versus

The State of Maharashtra

..Respondent

Mr.Uday Warunjikar, with Mr.Siddhesh Pilankar,
Advocates for the Petitioner.

Mrs.M. S. Bane, AGP, for the Respondent/State.

CORAM : B. P. COLABAWALLA, J &
M. M. SATHAYE, JJ.
DATE : OCTOBER 23, 2023

P.C.

The above Contempt Petition is filed inter alia alleging breach and willful disobedience of the order dated 22nd January, 2019 passed in Writ Petition No.10390 of 2016. By this order, a Division Bench of this Court set aside the order passed by the Competent Authority refusing to refer the matter for adjudication to the Civil Court, and in view of Section 3H (4) of the National Highways Act, 1956, directed the Competent Authority to refer the dispute to the Principal Civil Court of original jurisdiction within whose limits the land (which forms the subject matter of the Writ

Petition) was situated. These steps were to be taken within a period of eight weeks from 22nd January, 2019. Since according to the Petitioner, this was not done, the present Contempt Petition is filed.

2 In the reply filed by the State, it has been brought on record that as per Section 3H (4) of the National Highways Act, 1956, a reference has been made to the Civil Judge Senior Division, Panvel vide letter dated 28th September, 2021. Further it is stated that out of the total compensation of Rs.32,17,732/-, an amount of Rs.16,22,017/- was also disbursed to Respondent No.2, [in Writ Petition No. 10390 of 2016] on 2nd April, 2016 itself, namely prior to the passing of the order of the Division Bench dated 22nd January, 2019. The balance amount of Rs.15,95,715/- has been deposited with the Reference Court. All this has been done in compliance of the order dated 22nd January, 2019, albeit with some delay.

3 Considering that the order dated 22nd January, 2019 has not been complied with, albeit with some delay, we do not propose to entertain this Contempt Petition any further. We accordingly dismiss the above Contempt Petition.

4 We make it clear that for the amounts that have already been disbursed to Respondent No.2 [in Writ Petition No.10390 of 2016], the Petitioner herein is at liberty to make an appropriate application seeking deposit of the said amounts before the Reference Court by Respondent No.2. If such an application is made before the Reference Court, the same shall be decided on its own merits and in accordance with law after hearing Respondent No.2 in [Writ Petition No.10390 of 2016].

5 This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[M. M. SATHAYE, J.] [B. P. COLABAWALLA, J].