

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 804 OF 2022

Eknath Bhau Patil
Versus
State of Maharashtra,
Through Department
of Revenue & Forest And Ors.

...Petitioner

...Respondents

....

Mr. Sachin Shetye a/w Mr. J. R. Jadhav for the Petitioner.
Mr. R. S. Pawar AGP for State.

CORAM: G. S. KULKARNI &
RAJESH S. PATIL, JJ.

DATE : 12 JUNE, 2023

P.C.

1. This contempt petition has been filed alleging that the contempt of the order dated 25 November 2019 passed by a co-ordinate Bench of this Court and for further reliefs, which in our opinion, are not maintainable, inasmuch as there are substantive reliefs and outside the contempt jurisdiction of this Court. The prayers as made in this contempt petition are required to be noted, which reads thus:

“a) This Hon’ble Court may be pleased to initiate an action against the Respondents No.2 to 4 for having committed contempt under the Contempt of Courts Act, 1971, and under Article 215 of the Constitution of India for deliberate and willful disobedience of an order dated 25.11.2019 passed in Writ Petition No.995 of 2019 [Exhibit A to the Petition].

b) This Hon'ble Court be pleased to direct the respondent No.3 to allot / grant the Class-I agricultural land free from all encumbrances as affected person with the occupancy status on the land held by him earlier instead of the lands allotted to the Petitioner.

AND/OR ALTERNATIVELY

c) This Hon'ble Court be pleased direct the Respondent No.3, to convert the lands bearing Gat No.1011, 1008 and 731 at Village Kothali, Tal. Karvir, District Kolhapur and land Gat No.97 at Village Vadipeer and land Gat No.991, Gat No.360 at Village Aare, Tal. Karvir, Dist. Kolhapur into Class-I which are allotted to the Petitioner's father for rehabilitation by impugned under the provisions of Maharashtra Project Affected Persons Rehabilitation Act, 1999.

d) Reliefs granted in terms of prayer clause [a] [b] & [c].

e) Costs of this Petition be provided for.

f) Any other reliefs be granted as this Hon'ble Court deems fit, proper and adequate."

2. At the outset, as the contempt is alleged of an order dated 25 November 2019, the said order is required to be noted, which read thus:-

"1. Heard learned Counsel for the Parties.

2. The common pleadings of the parties are that the Petitioner is a project affected person and entitled to compensatory land in terms of the Maharashtra Project Affected Persons Rehabilitation Act, 1976. The further common pleadings are that 65% of the awarded amount post acquisition of land of the Petitioner has been credited to the treasury.

3. The Petitioner has been allotted compensatory land but the same is Devasthan Inami Class III land. The land of the Petitioner which was acquired was a Class-I land.

4. We have used expression common pleadings of the parties for the reason these pleadings in the Writ Petition have been admitted in the counter affidavit filed.

5. The grievance in the Writ Petition is that the land which has been allotted to the Petitioner has various restrictions qua sale, lease and letting of the land on account of the land being Devasthan Inami Class III land. Since the land of the Petitioner which was acquired was free from such encumbrances, the petitioner has prayed that compensatory land allotted to him should be of a category which is free from encumbrances and matches the status and character of the land of the Petitioner which was acquired.

6. In the counter affidavit filed, while admitting that the Petitioner would be entitled to alternative land of the same Class and Category of land which was acquired from the Petitioner, it is pleaded that vide Government Resolutions dated 07.03.2019 and 04.06.2019 a decision has been taken to convert the classification of the land allotted to the Petitioner from Devasthan Inam land to Occupancy Class-I right land.

7. Now, from 04.06.2019 nearly five and half months have been lapsed. The status of the land allotted to the Petitioner has still not been changed.

8. The problem which the Petitioner faces is to resettle his family and claims that he needs to sell some land to settle his children. The Petitioner cannot do so in view of the limitations attached to the land allotted.

9. Thus, we dispose of the Petition directing that if within two months from today the nature of the land allotted to the Petitioner from the category of Devasthan Inam land is not converted into a land having occupancy Class-I right, alternative land of Occupancy Class-I right shall be allotted to the Petitioner within four months from today. The Petitioner would return possession of the allotted land to him simultaneously. In case an alternative land is allotted, the Petitioner would not only be put in possession thereof but revenue entries in his name would be effected within the same period of time.

10. No costs.”

(Emphasis supplied)

3. The learned counsel for the petitioner contends that the direction of the Court in paragraph 9 (supra) of the said order are

not complied. The directions in paragraph 9 of the said order are quite plain, namely, that the respondents were directed that if within two months from the date of passing of the said order (i.e. 25 November 2019), the nature of the land allotted to the petitioner from the category of Devasthan Inam land is not converted into a land having occupancy Class-I right, alternative land of Occupancy Class-I right shall be allotted to the petitioner, within four months from the date of the said order. In that event, the petitioner would return the possession of the allotted land to him simultaneously. There are also further consequential directions that in case an alternative land is allotted, the petitioner would not only be put in possession thereof but the revenue entries in his name would be effected from the same period of time. These directions of the Court are alleged to be breached by the respondents.

4. At the outset, we may observe that respondents have prayed that this Court exercises jurisdiction under the Contempt of Courts Act, 1971, necessarily the first endeavour of the Court is to examine as to whether there is any wilful and disobedience of an order passed by this Court.

5. Learned counsel for the petitioner, in support of the prayers

made in the contempt petition, has drawn the Court's attention to the order dated 9 March 2023, more particularly when the Court was considering the primary directions as made in the order dated 25 November 2019, wherein the Court has made the observations as already noted above. For convenience the said observations are re-extracted which reads thus:-

“6. At this stage, Mr. Pawar seeks time to take instructions whether the said Government Resolution pressed in service by the Petitioner can be invoked by the Petitioner and that appropriate decision to convert the Devasthan Inam Land offer to the Petitioner can be converted into Occupancy Class-1 or not.

7. Learned AGP is directed to place on record the decision taken by the State Government, if any, refusing to convert the Devasthan Inam Land into Land of Occupancy Class-1.”

6. Learned counsel for the petitioner has also drawn the Court's attention to the observations as made in paragraph Nos.6, 7 and 9 of the said order, to submit that even such orders passed by the Court are not complied by the respondents.

7. A reply affidavit is placed on record on behalf of the respondents. The reply affidavit is filed by Ms. Ashwini Harishchandra Sonawane (Jirange), Deputy Collector (Resettlement), Collector Office Kolhapur, wherein, in regard to the compliance of the order dated 25 November 2019 passed by this Court, it is stated as under:

“6. I say that, as there was 2nd option to allot alternate

land to the petitioner, as per order dated 25-11-2019 and guidance from State was also awaited, therefore, not to cause undue delay in compliance of said order, the Petitioner was called for hearing by DRO on dated 13.01.2023 and was asked to choose the land available in the benefited zone of Tulshi Project. The list of villages that come in the benefited zone of Tulsi Irrigation Project was given to the Petitioner. Here to annexed and marked as **Exhibit-3** the list of villages and letter given by Deputy Engineer dated 03.08.2020.

7. The Petitioner remained present in the office of DRO on dt.13.01.2023 and he is of view that as he has received the land from village Kothali, Taluka Karvir Gat No. 731 of 1008, 1011 and Wadipir, Taluka Karvir Gat. No.97, then the same land which was allotted to him to be converted to Class I as the land is Class II being Devasthan Land and he denied to select alternate land. The same is stated so by the petitioner in his Jabab dt. 13.01.2023 in front of Tahsildar Resettlement. Here to annexed and marked as **Exhibit-4** the jabab dt. 13.01.2023.

9. I further say that in view of this direction and fact that Devasthan land was temporarily allotted to the petitioner, this Respondent requested the petitioner to place demands of the land in above villages, which was in the name of the collector & Dy Director, Project Resettlement (Land) Kolhapur, the same will be allotted to the petitioner by following due process of law. However the petitioner is not giving his preference of alternate land and hence it is getting delay to comply order dated 25-11-2019.

8. From the reading of the aforesaid contents of the reply affidavit, it is clear that the case of the respondents that on passing of the order by this Court on 25 November 2019, the respondents have taken steps. It is clear that there was land to be converted into Class-I and the petitioner was called upon to select the land. The communication of the Additional Collector (Resettlement) addressed to the Deputy Secretary, Revenue and

Forest Department, Mantralaya dated 4 November 2019 is also placed on record.

9. A further additional affidavit-in-reply is filed of Shri Rahul Ashok Rekhawar, District Collector, Kolhapur, whereby in view of the order dated 9 March 2023 passed by this Court, the deponent has stated that the directions were issued by this Court in respect of conversion of Devasthan Inam land to be given to the petitioner as occupancy Class-I land as per G.R. dated 7 March, 2019 and to that effect, the State Government has taken a decision on 19 March 2023 and refused to convert the Devasthan land into land of occupancy Class-I right. The relevant statement as made in the said affidavits are also required to be noted in which the deponent has alleged that the petitioner has misled the Court by suppressing factual aspects of the matter. The relevant statements made in the affidavit are significant considering the directions of this Court in the order dated 9 March 2023. We accordingly, extract the said statements as made in the affidavit, which reads thus:

“12. I say that, in view of the above said position, the conversion of the Devasthan Inam land into Class I is not possible. Therefore, I tender my unconditional apology for not complying with the directions of the order dated 09.03.2023.”

10. It is thus a clear and categorical stand of the State

Government, which not only states the compliance in terms of what was directed by this Court in the order dated 25 November 2019 as also by subsequent order dated 9 March 2023 as passed on this petition that the Devasthan land cannot be converted into land of occupancy Class-I right.

11. In any event, in our opinion, paragraph 9 of the order dated 25 November 2019 is quite clear as also self-operative in regard to the directions.

12. Thus, steps were taken by the State Government to allot the alternate land as categorically stated in the reply affidavit. However, it appears that the petitioner is insisting only for the Devasthan land to be converted into land having occupancy Class-I right, for the reason that the petitioner was put in possession for cultivation of the said land without creating any final rights in regards to the said land in favour of the petitioner.

13. In our opinion, insistence of the petitioner in the present proceedings that only the Devasthan land, more particularly the land in occupancy be allotted to the petitioner by converting the said to occupancy Class-I is totally untenable. Considering the nature of the directions as given by this Court, the directions are

clear that the petitioner would be offered alternate land having occupancy Class-I right, within two months. The Devasthan land could not be converted into the land having occupancy Class-I rights.

14. In the above circumstance, we are quite surprised as to how the petitioner can maintain this contempt petition and more so point out any intentional or any deliberate disobedience of the orders passed by this Court.

15. The contempt petition is only without merit. It is accordingly rejected. No costs.

[RAJESH S. PATIL J.]

[G.S. KULKARNI, J.]