



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

CONTEMPT PETITION NO. 254 OF 2019

M/s. Himalaya Cars, a registered partnership firm through its Partner Kishor Devidas
Gopalani

..VS..

The Municipal Council, Yavatmal and others

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

Court's or Judge's orders

Mr. Aniket S. Dabadghao, Advocate h/f Mr. D.V. Chauhan, Advocate
for petitioner.

Mr. S.C. Bhalerao, Advocate for respondent No.1.

CORAM : ANIL L. PANSARE, J.

ARGUMENTS WERE HEARD ON : 21.08.2023.

ORDER PRONOUNCED ON : 25.08.2023.

Heard.

2. The petitioner has filed contempt petition against the respondents, the Officers of Municipal Council, Yavatmal.

3. The allegations against the respondent Officers are that they have in willful disregard to the judgment and decree dated 30.06.2014, passed by the learned 6th Joint Civil Judge, Junior Division, Yavatmal in Regular Civil Suit No.341/2012 demolished the east-west compound wall on northern side of the petitioner's showroom.

4. Having heard both sides, what is contended by the petitioner is that the suit property and the compound wall was earlier located within the jurisdiction of Gram Panchayat, Lohara. Sometimes, on or about 22.01.2016, the area of Lohara Gram Panchayat was transferred within the jurisdiction of Municipal Council, Yavatmal. The judgment and decree dated 30.06.2014 was passed against the Gram Panchayat, Lohara and is binding upon the successor i.e. the Municipal Council as well.

5. In the light of above, since the order under question is dated 30.06.2014 and area of Lohara Gram Panchayat was transferred within the jurisdiction of Municipal Council, Yavatmal on 22.06.2016, a query was made to the counsel for the petitioner, as to whether the respondent Officers were aware of the order dated 30.06.2014, the spontaneous answer is that they were informed orally. This statement has been denied by the respondents.

6. Thus, there is statement against statement on the point, whether the order dated 30.06.2014 was within the knowledge of the respondents to allege that they have willfully disobeyed the said order. There is no cogent evidence on record to indicate so. In absence thereof, the contempt jurisdiction cannot be invoked only on the presumption of knowledge of an order. Thus, it is difficult to hold that the respondent Officers of Municipal Council have willfully disobeyed the order passed by the Court.

7. The contempt proceedings therefore, are dropped.

(ANIL L. PANSARE, J.)

Kirtak.