



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

**955 CONT. PETITION NO. 768 OF 2023
IN WP/4274/2023**

UMAKANT PANDITRAO BIRADAR

VERSUS

**THE STATE OF MAHARASHTRA THROUGH PRINCIPAL
SECRETARY URBAN DEVELOPMENT DEPARTMENT
MANTRALAYA**

...

Advocate for Petitioner : Mr. Anjali Dube

AGP for Respondent No. 1 : Mr. G.O. Wattamwar

Advocate for Respondent Nos. 2 & 3 : Mr. Bagal Suraj R.

...

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 02 APRIL 2024

PER COURT :

We have heard both the sides.

2. Learned Advocate for the petitioner tenders across the bar affidavit-in-rejoinder.

3. By the order of which implementation is being claimed and disobedience is being alleged, this Court had directed the Municipal Commissioner of Latur, Municipal Corporation to consider the petitioners representation by a specific date, wherein she was *inter alia* alleging about the construction being carried out adjoining to her property by the concerned who was respondent no. 4 in Writ Petition No. 4274 of 2023, to be unauthorized and illegal.

4. The petitioner's stand is that in spite of the order and in spite of a specific communication tendered in the office of respondent – Corporation advertent attention to the directions of this Court, she was not given any opportunity of being heard and there is intentional disobedience of the directions.

5. The stand in the affidavit-in-reply of the Municipal Commissioner *inter alia* mentions about delegation of the powers to deal with the issues in concerning unauthorized constructions. It expressly mentions that the order was not brought to his notice by his subordinates. However, independently the Zonal Officer had initiated a prosecution and notice under Section 54 (1) of the MRTP Act was also issued to respondent no. 4 - the adjoining owner.

6. Considering the fact that the prayer in the petition itself only sought an action under Section 54 of the MRTP Act against respondent no. 4, the purpose of filing the petition as also the direction, stood obeyed in the light of the fact that indeed under Section 54 (1) of MRTP a notice was issued and the proceeding was initiated against respondent no. 4.

7. Though it is a submission of the learned Advocate for the petitioner that subsequently the unauthorized construction has been

regularized, if it was a dispute regarding margin space, this Court had even comprehended the situation and the limited scope under Article 226 of the Constitution of India to go into that dispute and had expressly observed that the appropriate remedy for the petitioner would be approach the Civil Court by filing a suit.

7. Learned Advocate for the petitioner submits that the petitioner has subsequently filed a civil suit against respondent no. 4.

8. In our considered view, in the stock of the aforementioned events, no action of contempt needs to be pursued. Contempt Petition is disposed of.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]