



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CONTEMPT PETITION NO. 836 OF 2023
IN
WRIT PETITION NO. 5946 OF 2022

1. Bhausahab @ Bhaskar S/o. Yadav Katore
Age : 71 years, Occ : Agril.,
2. Tukaram Yadav Katore
Age : 61 years, Occ : Agril.,
3. Gorakshanath Yadav Katore
Age : 60 years, Occ : Agril.,

All Ro Dhangarwadi, Sonai,
Tq. Newasa, Dist. Ahmednagar.

PETITIONERS

-VERSUS-

1. Rupeshkumar Surana
Age : Major, Occ : Service as Tahsildar,
Amalner,
Office at office of Tahasildar, Amalner,
Tq. Amalner, Dist. Jalgaon.
2. Sanjay Biradar
Age : Major, Occ : Service as Tahasildar,
Newasa,
Office at office of Tahasildar, Newasa,
Tq. Newasa, Dist. Ahmednagar.

RESPONDENTS

Mr.S.V. Dixit, Advocate for the Petitioners.
Mr.A.R. Kale, AGP for the respondent/State.

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**CORAM : SMT. VIBHA KANKANWADI &
R.W. JOSHI, JJ.**

DATE : 14 NOVEMBER, 2024.

JUDGMENT (Per R.W. Joshi, J.):

1. The present contempt petition is filed under Section 12 of the Contempt of Courts Act, 1971 and Article 215 of the Constitution of

India, drawing attention of this Court to willful disobedience of the judgment and order dated 16th June, 2024 passed by this Court in Writ Petition No.5946/2022 by respondent Nos.1 and 2.

2. Writ Petition No.5946/2022 was filed by the petitioners seeking writ of mandamus from this Court for directions to respondent No.4/Tahsildar, Newasa to conclude the proceeding filed under Section 32-G of the Maharashtra Tenancy and Agricultural Lands Act, 1948 (Hereinafter referred to as "MTAL Act" for brevity) within a stipulated period of one month or such period as may be deemed appropriate by this Court. The said petition came up for hearing before this Court on 16th June, 2022. Vide order dated 16th June, 2022, the petition came to be disposed of by issuing directions to respondent No.2 Tahsildar to decide R.T.S. Case No.1503/2015 filed under section 32-G of the MTAL Act on or before 30th August, 2022. Since the said proceeding was not decided within the period stipulated, the petitioners have filed the present contempt petition.

3. Initially, the respondent No.1 was arrayed as sole respondent in the petition since he was holding the office of Tahsildar at the relevant time. Thereafter, vide order dated 30th October, 2023, leave was granted to replace the respondent sole by his successor in office. Accordingly, the respondent No.2 came to be arrayed as a party respondent to the petition.

4. On 22nd December, 2023, learned Additional Government Pleader had given an assurance to this Court on the basis of communication dated 6th December, 2023 issued by the respondent No.2 that the matter would be decided on merits. Thereafter, since the matter was not decided, format notice was issued to respondent No.2 in Form No. I as per Rule 9 of Chapter XXXIV of the Bombay High Court Appellate Side Rules, 1960.

5. Respondent No.1 has filed affidavit-in-reply dated 20th December, 2023. Respondent No.1 has offered explanation for the delay caused in deciding the proceeding in paragraph 3 of the affidavit and has further tendered unconditional apology in paragraph 5 to 7 of the affidavit. It is stated that he was holding the office of Tahsildar, Newasa upto 13th March, 2023 and matter could not be decided in view of adjournments sought by the petitioners, who were seeking time for production of documents and other evidence.

6. Respondent No.2 has filed affidavit-in-reply dated 7th March, 2024. Respondent No.2 has stated that he has assumed office of Tahsildar, Newasa on 13th March, 2023. He has tendered unconditional apology for inconvenience caused to the Court in view of the delay in deciding the matter. It is stated that the matter has been finally decided vide order dated 7th March, 2024, a copy whereof is annexed with the

affidavit-in-reply as Exhibit `R-I'. The application filed by the petitioners under Section 32-G is rejected by respondent No.2.

7. Learned Advocate for the petitioners submitted that respondent No.2 has completely disregarded the judgment dated 26th February, 2015 passed by this Court in Writ Petition Nos.3091/2001, 3093/2001 and 3094/2001. It is submitted that the order passed by respondent No.2 is contrary to the said judgment and as such, respondent No.2 should be held guilty of having committed contempt. He also stated that the decision is not taken within the time frame stipulated by this Court vide order dated 16th June, 2022 passed in Writ Petition No.5946/2022.

8. Per-contra, the learned Additional Government Pleader has submitted that although there is some delay in deciding the matter, the delay was not willful or deliberate. He further submits that ultimately, the matter has been decided as directed by this Court. He further submits that respondent Nos.1 and 2 have tendered sincere and honest apology for the delay caused. It is further submitted that correctness or otherwise of the order passed by respondent No.2 can not be adjudicated upon in the present Contempt Petition. In view of the aforesaid, he submits that the contempt proceeding be dropped by dismissing the petition.

9. Learned Advocate representing the petitioners has advanced submissions on the correctness of the order passed by respondent No.2. He submitted that the order passed by respondent No.2 is contrary to the judgment dated 26th February, 2015 passed by this Court in Writ Petition No.3091/2001 and the connected petitions and as such, the same is unsustainable.

10. We are afraid that having regard to the scope of our jurisdiction under section 12 of the Contempt of Courts Act as well as Article 215 of the Constitution of India, we can not adjudicate upon the correctness or otherwise of the order passed by respondent No.2. Perusal of the order dated 16th June, 2022 in Writ Petition No.5946/2022 of which contempt is alleged merely directs the Tahsildar, respondent No.4 in the said petition, to decide R.T.S. Case No.1503/2015 on its merits on or before 30th August, 2022. The said matter has now been decided by respondent No.2 vide order dated 7th March, 2024. The order passed by this Court in Writ Petition No.5946/2022 is thus complied with, although not within stipulated period.

11. As regards the delay, learned Advocate for the petitioners did raise a grievance about the same, however, the statements in the affidavit-in-reply regarding delay caused on account of accommodation

sought by the petitioners for production of documents and evidence was not specifically dealt with. No submissions were advanced to demonstrate that the statements with respect to delay in affidavit of the respondents are incorrect or contrary to record. Having considered the rival submissions, we are of the opinion that although there is delay in deciding the matter, the respondent Nos.1 and 2 have offered acceptable explanation for the same. They have also tendered unconditional apology for the delay caused. In such circumstances, we are inclined to accept the unconditional apology offered by respondent Nos.1 and 2 for the delay caused in deciding the matter.

12. In the light of aforesaid, the contempt petition is dismissed. The contempt notice issued by this Court against respondent No.1 stands discharged.

13. Needless to mention that it shall be open for the petitioners to avail such remedies as are available to them under law to assail the order dated 7th March, 2024 passed by the Tahsildar.

[R.W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE