

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 12556 OF 2023

Dilip Baburao Jagdale and Ors.	... Petitioners
V/s.	
State of Maharashtra and Ors.	... Respondents

with

CONTEMPT PETITION NO. 180 OF 2021

Ranjeet Vithalrao Zagade	... Petitioner
V/s.	
State of Maharashtra and Ors.	... Respondents

with

INTERIM APPLICATION NO. 16112 OF 2023

in

WRIT PETITION NO. 11869 OF 2018

Dilip Baburao Jagdale and Ors.	... Petitioners
V/s.	
Ranjeet Vithalrao Zagade	... Respondent

Mr. Abhijit P. Kulkarni with Gaurav Shahane, Kurshna Jaybhay and Sweta Shah for the Petitioners in WP 12556/23

Dr. Birendra Saraf, Advocate General with Mr. P.P. Kakade, Govt. Pleader with Mr. B.V. Samant, Addl. G.P. with Ms. M.S. Bane, AGP for the Respondent - State

Mr. S.R. Nargolkar with Ms. Neeta Patil for Respondent No.4

Mr. Sidheshwar N. Biradar i/b. Abhijit Kale for the Petitioner in CP 180/21

***CORAM : NITIN JAMDAR &
M.M. SATHAYE, JJ.***

DATE : 03 APRIL 2024

P.C. :-

On 21 February 2024, the following order was passed :-

“The contempt alleged is of the order dated 24 February 2020. The learned Counsel for the Petitioner has relied on paragraph 3 of the operative portion of the order dated 24 February 2020, however, paragraphs 1 and 2 are entirely a reference to the affidavit in reply filed by the Municipal Council.

2. That being the position, prima facie, it appears that to consider the Petitioner’s grievance, adjudication will have to be carried out thereby adding or modifying to the original order.

3. The learned Counsel for the Petitioner seeks time to examine whether substantive petition would be an appropriate remedy for the grievance of the Petitioner as ultimately this Court in contempt jurisdiction is concerned only with whether any contempt is made out on the part of the Respondents.

4. Stand over to 3 April 2024.”

2. Request is made on behalf of the learned Counsel for the Petitioners on the ground that he is not available. We have to keep in mind the nature of the contempt proceedings. The contempt jurisdiction is primarily between the Court and the contemnor. The

Court has to be satisfied that there is a deliberate defiance of the order of this Court and thereafter, steps have to be taken which could result in coercive and penal action. It is settled law that the contempt jurisdiction is not to be exercised for the purpose of adjudicating the issues beyond the contemplation of the Court when the original order was passed and then to decide on the rights and liabilities of the parties.

3. Having perused the order dated 24 February 2020, we are of the opinion that the interpretations are possible of the order dated 24 February 2020 and the Court will have to adjudicate upon interpretation. Therefore, appropriate course of action would be, as we have indicated in the order dated 21 February 2024, is to give liberty to the Petitioner to institute substantive proceedings for the relief and the grievance that the Petitioner seeks. With this liberty, we close the proceedings in the Contempt Petition. The Contempt Petition is disposed of.

M.M. SATHAYE, J.

NITIN JAMDAR, J.

JYOTI
PRAKASH
PAWAR

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by JYOTI
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Date: 2024.04.06
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