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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO. 5 OF 2021
IN
CIVIL APPLICATION (ST) NO. 25507 OF 2018
IN
WRIT PETITION NO. 6725 OF 2013
ALONGWITH
INTERIM APPLICATION NO. 108 OF 2021

Florida Estate B Co-operative ... Petitioner/Applicant
Housing Society Limited through
Chairman GP Servio Cristo Fernandes

Vs.

Anirudh Seolekar, Partner in ... Respondents
Consortium Construction
Company and Others

WITH

WRIT PETITION NO. 2827 OF 2013

Consortium Construction ... Petitioner
Through Partner
Shri Parag Chinubhai Shaha

Vs.

Florida Estate B Co-operative ... Respondent
Housing Society Limited through
Chairman and Others

WITH

WRIT PETITION NO. 6725 OF 2013

Shri Anirudha Seolekar

... Petitioner

Vs.

Lt. Col (Retd) Mukund

... Respondents

Dattatraya Thipse and Others

WITH

WRIT PETITION NO. 6510 OF 2013

M/s. Florida Estate C Co-operative

... Petitioner

Housing Society Limited through

Secretary Amrutlal Khupchand Kothari

Vs.

Brig. Pradeepkumar

... Respondents

Dasgupta

WITH

WRIT PETITION NO. 6812 OF 2010

Florida Estate Premises

... Petitioner

Vs.

Florida Estate B Co-op Hsg.Soc.

... Respondents

and Others

WITH

WRIT PETITION NO. 14251 OF 2018

Florida Estate B Co-operative

... Petitioner

Housing Society Limited through

Chairman GP Servio Cristo Fernandes

Vs.

Consortium Construction

... Respondents

Company, Pune and Others

Mr. Kalpesh Joshi i/b. Mr. Kalpesh Joshi Associates for the Petitioner
in Contempt Petition No. 5 of 2021.

Mr. R. D. Soni a/w. Mr. B. K. Gadage for Respondent No.1.

Mr. Pradeep J. Thorat for Respondent No.3.

Ms. M. S. Srivastava, AGP for Respondent Nos. 4 to 6.

CORAM : GAURI GODSE, J.

DATE : 1st MARCH 2024

P.C.

**Contempt Petition No. 5 of 2021 In Interim Application (St) No.25507
of 2018 In Writ Petition No. 6725 of 2013**

1. This Contempt Petition is filed by respondent no. 2 in the Writ Petition. The allegation in the Contempt Petition is that there is a breach of the order dated 25th October 2018 passed in the Civil Application filed by the Contempt Petitioner.

2. Learned counsel for the petitioner submits that by order dated 25th October 2018, the parties were directed to maintain the status quo as on date of the order. He submits that on 10th June 2019 respondent no.1 in the Contempt Petition without permission and consent began ploughing and levelling the amenity plot with the help of a tractor. To

support the said submission learned counsel for the petitioner relied upon the photographs annexed to the contempt petition.

3. He further submitted that the order directing parties to maintain the status quo was passed in a civil application filed by him seeking an injunction restraining respondent no.1 from carrying out construction. He, therefore, submits that the action of respondent no. 1 of ploughing and levelling the amenity plot amounts to a deliberate breach of the order directing parties to maintain the status quo.

4. He further submits that there is also an allegation in the contempt petition that respondent no. 1 is trying to change the nature of the amenity plot by sowing seeds and saplings on the ground of the amenity plot. Therefore, he submits that there is a deliberate breach of the order of status quo.

5. Learned counsel appearing for respondent no. 1 relied upon an affidavit in reply filed by respondent no.1. He submits that respondent no. 1 has denied the allegations made by the contempt petitioner. He has denied the allegation of ploughing and levelling as stated in the Contempt Petition. He submits that the photographs annexed by the

petitioner show that the vegetation and/or unwanted growth on the land which automatically takes place is being removed.

6. He submits that a specific statement is made on behalf of respondent no. 1 in paragraph 6 of the affidavit in reply that there is no levelling or ploughing done by respondent no. 1 as alleged by the Contempt Petitioner. He therefore submits that there is no substance in the allegation made by the contempt petitioner. He further submits that the perusal of the record would show that there is no breach of the order directing parties to maintain status quo.

7. I have considered the submissions made by the parties. Perused the record. The order directing the parties to maintain the status quo is passed in a Civil Application filed by the Contempt Petitioner who is respondent no. 2 in the main petition. A perusal of the prayers in the civil application filed by the Contempt Petitioner indicates that the contempt petitioner had prayed for an order of injunction restraining the Writ petitioner and respondent no. 3 in the Writ Petition from constructing any structure of permanent or temporary nature over the amenity plot and directing them to maintain the status quo in respect of the amenity plot.

8. Order dated 25th October 2018 passed in the said application directs parties to maintain the status quo as of the date of the order. A perusal of the contempt petition indicates that the allegation by the Contempt Petitioner regarding breach of the order of status quo is in paragraph 5 of the Contempt Petition which alleges that respondent no. 1 herein without permission and/or consent began ploughing and levelling the amenity plot with the help of a tractor on 10th June 2019. The rest of the averments and allegations in the Contempt Petition are prior to the order of status quo passed.

9. I have perused the affidavit in reply filed on behalf of respondent no.1. Respondent no.1 has specifically denied the allegation and has explained that the photographs relied upon by the Contempt petitioner show that the vegetation and/or unwanted growth in the land which automatically takes place is being removed.

10. It is also stated that there is no levelling or ploughing done as alleged by the petitioner. Thus, a perusal of the allegation made in the contempt petition and the response of respondent no. 1 in the reply does not indicate that there is any willful breach committed by

respondent no. 1 of the order directing the parties to maintain status quo.

11. Learned counsel for the petitioner submits he has filed an interim application in the Contempt Petition for appointment of Court Receiver on the amenity plot. In the said application there is also a prayer made for restraining respondent no. 1 from carrying out any farming or construction activities on the amenity plot. There is also a prayer made for directing respondent nos. 1 and 3 to remove the barricade installed by respondent nos. 1 and 2 as well as remove the work of any nature carried out on the amenity plot in violation of the order dated 25th October 2018.

12. I have already recorded my reasons that there is no substance in the allegations made in the contempt petition and perusal of the record does not indicate that there is any breach as alleged by the Contempt Petitioner. All the averments in the contempt petition are explaining the position existing prior to the order dated 25th October 2018. In the interim application, allegations are made that a plinth is constructed with some wall work on 9th December 2020. These allegations are not made in the contempt petition. Similar prayers with similar allegations

is already decided by order dated 25th October 2018 and the contempt petition is filed alleging breach of the said order directing the parties to maintain status quo.

13. The order directing the parties to maintain the status quo is passed in a writ petition arising out of an order passed by the learned minister in a revision application filed by respondent no. 1 along with the other petitioner. A perusal of the record indicates that the proceedings are arising out of a change of user of the property under the Maharashtra Land Revenue Code, 1966

14. The writ petition is already admitted and pending for final hearing. Considering the nature of dispute pending in the contempt petition prayers made in the interim application in contempt petition cannot be considered in an application in contempt petition. The prayers and averment in the application are beyond the scope of the Contempt jurisdiction.

15. Hence, I do not see any reason to entertain the contempt petition as well as the interim application. Hence, for the reasons recorded above the contempt petition and interim application are dismissed.

16. The connected Writ Petitions are also shown on the causelist. However, the same are not tagged with the Contempt Petition. Hence, no orders are passed in other connected Writ Petitions listed along with the contempt petition.

[GAURI GODSE, J.]