



Darshan Patil

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO. 443 OF 2024

Janta Housing Private Limited ...Petitioner
Versus
Mira Bhayander Municipal Corporation and Ors. ...Respondents

Mr Rohaan Cama, *a/w Mr Rushabh Sheth, Adv Mansi Jain, Ms Pratibha Rupnaway (through V.C.) i/b Samatva Legal Associates, for the Petitioner.*
Mr Mayuresh Lagu, *a/w Mr Sagar Patil, for the Respondent-MBMC.*

CORAM **M.S. Sonak &**
 Kamal Khata, JJ.
DATED: **12th August 2024**

PC:-

1. Heard learned counsel for the parties.
2. There was a breach of our order dated 21 June 2023 passed in Writ Petition No.7279 of 2023 in as much as the petitioner's representation, which was to be decided within 8 weeks, was not so decided. Therefore, on 11 July 2024, we made the following order:-

“1. Heard learned counsel for the parties.

2. By our order dated 21st June 2023 we had directed the Mira Bhayander Municipal Corporation to dispose of the Petitioner's representation as early as possible and preferably within a period of eight weeks from the date of receipt of the representation.

3. Learned counsel for the Petitioner states that the representation was made on 10th July 2023. Since the same was not decided till date, the Petitioner has instituted this Contempt Petition.

4. Learned counsel for the Corporation, on instructions states that the Commissioner will now dispose of the representation within six weeks.

5. We note that this Contempt Petition was served on the Corporation by email on 31st May 2024 and physically on 4th June 2024. We are surprised as to why the Petitioner's representation was not disposed of till date. At least after 4th June 2024, the Petitioner's representation should have been expeditiously disposed of instead of instructing the advocate to request for six weeks further. Accordingly, we direct the Corporation to dispose of Petitioner's representation within three weeks from today i.e. on or before 1st August 2024 and file a compliance affidavit by 8th August 2024. The affidavit should be filed by the Commissioner and should explain why, from 10th September 2023 onwards the Petitioner's representation was not disposed of, thereby forcing the Petitioner to invoke this Court's contempt jurisdiction.

6. If the Commissioner is of the opinion that some of the officials of the Corporation were responsible for the delay, the Commissioner should fix the responsibility on such officials and disclose their names in the affidavit. If the Commissioner finds it difficult to fix the responsibility on the officials, then, we will have to fix the responsibility on the Commissioner and consider whether any further action is required in this Contempt Petition.

7. List this matter on 12th August 2024."

3. Pursuant to the above order, the Commissioner heard the parties and made an order on 25 July 2024. Mr Cama, learned counsel for the petitioner, submits that notice was issued to a sister concern, and effective notice was served upon the petitioner only on 23 July 2024 by 12 noon, when the hearing was scheduled at 3.00 p.m. On these grounds, Mr Cama urges that we set aside the order dated 25 July 2024 in this petition. These contentions may

or may not be correct. However, they cannot be examined in a Contempt Petition.

4. If the petitioner is aggrieved by the order dated 25 July 2024, either on the ground of failure of natural justice or on the merits, it is open to the petitioner to challenge this order according to the law. However, we do not think we should examine its validity or otherwise in the exercise of our contempt jurisdiction.

5. Though there was a delay in complying with our initial order, given the explanation offered, we cannot say that this was some case of deliberate or willful disobedience by the Commissioner. The Commissioner has complied with our order dated 11 July 2024, The Commissioner has also issued notices to the Corporation officials who were prima facie responsible for the delay in complying with our initial order dated 21 June 2023, passed in Writ Petition No.7279 of 2023.

6. In these circumstances, we dispose of this Contempt Petition by leaving it open to the petitioner to challenge the order dated 25 July 2024 in accordance with law and on its own merits.

7. Learned counsel for the petitioner submitted that the petitioner filed an application for re-hearing on 01 August 2024. If such an application is maintainable under law, the petitioner may pursue it.

8. The Contempt Petition is disposed of in the above terms.

(Kamal Khata, J)

(M.S. Sonak, J)