



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CONT. PETITION NO. 752 OF 2025

Ichcharam Shankar Bhortakke & othersPetitioners

VERSUS

Mr B A Kapse & othersRespondents

Mr. S. S. Kulkarni, Advocate for the Petitioners.

CORAM : KISHORE C. SANT, J.
DATE : 19th NOVEMBER, 2025.

PER COURT :

1. Heard learned Advocate for the Petitioners.
2. The Petitioners have come before this Court alleging contempt at the hands of the Respondents.
3. The Respondents had filed an Application under Sections 33 and 43 of the Bombay Tenancy and Agricultural Lands Act Tenancy Act to the Tahsildar seeking possession of the land which was in possession of the Petitioners. The said Application came to be allowed by the learned Tahsildar by judgment and order dated 17.07.2025 directing the Petitioners to hand over possession. Immediately thereafter, the execution was started and on 17.07.2025

the Tahsildar and the Tenancy Tribunal handed over possession of the land to the Respondents. On 27.07.2025, even the names of the Petitioners came to be deleted from the revenue record.

4. It is contention of the Petitioners that when the appeal period was still to be over, the possession was taken by the Respondents in violation of the Circular dated 18.01.2022 issued by the Joint Secretary, Revenue and Forest Department. Learned Advocate submits that this Circular is based on the judgment passed by this Court at Principal Seat in Writ Petition No. 5046/2024. This Circular requires the authority to stay their hands till appeal period is over. Learned Advocate thus submits that not obeying the Circular ultimately amounts to contempt of the order passed by this Court in Writ Petition No. 5046/2024. He submits that case is therefore, made out to initiate action under Contempt of Courts Act.

5. This Court has perused the Circular. It does appear that the Circular requires the authorities to stay their hands and not to implement the orders till appeal period is over. This Court hardly finds that this can be considered to be a contempt of order passed by this Court. It is also not shown that even this Circular was shown to

the authorities and the Respondents would thereby get the knowledge that if they proceed further with the execution that would be a contempt of the Court. There is nothing to show that the Respondents have deliberately flouted the order passed by this Court or any Court subordinate to this Court. Mere violation of the guidelines in the Circular issued by the Government cannot be said to be contempt of the order passed by this Court on the basis of which the Circular is issued. This Court thus finds that no case is made out even for issuing notice in the Petition. Petition, therefore, deserves to be dismissed and the same is accordingly dismissed. It is open for the Petitioner to bring all these facts to the notice of the appellate authorities. It is for the appellate authorities to pass appropriate order.

(KISHORE C. SANT)
Judge