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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 12950 OF 2024
IN
CONTEMPT PETITION NO. 132 OF 2024

Kiran Shankarrao Hatti

.....Applicant

Vs.

The Collector Through the State of
Maharashtra and ors

.....Respondents

Mr. Niranjan Bhavake i/b Bhavake and Associates for the applicant
Mr. Rohit Sakhadeo for respondent no. 2
Mr. Bhooshan Mandlik for respondent nos. 4 and 5
Mr. Mandar Bagkar h/f Mr. Chetan Patil for respondent no. 9

CORAM : GAURI GODSE, J.

DATE : 7th JANUARY 2025

ORDER:

1. This application is filed for willful breach of order dated 10th May 2024. The order dated 10th May 2024 permits respondent no. 4 to file an undertaking before this Court, stating that he shall not to carry out any further construction and shall vacate and demolish the construction already carried out, in the event of the appeal being decided against respondent no. 4.

2. There is no dispute that such undertaking is filed by respondent

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no. 4. By the present application, the applicant has made allegation in paragraph 7 that despite of undertaking being filed by respondent no. 4, he has again started and continued the construction. The application is bereft of any particulars as to the date and nature of construction which is carried out by respondent no. 4. The affidavit-in-reply filed on behalf of respondent no. 4 categorically states that respondent no. 4 has not carried out any construction. The status of the photographs relied upon by the applicant are explained by respondent no. 4 in his affidavit-in-reply. To support the allegations, the applicant has only relied upon certain photographs annexed to the present application. The photographs are disputed by respondent no. 4.

3. In the absence of any particulars or pleadings with regard to alleged construction, present application cannot be entertained based on some photographs. The photographs cannot be relied upon on the face value in the absence of any supporting pleadings and if required by supporting evidence. In the absence of any particulars or pleadings of the allegations, I see no reason to entertain this application. The application is filed on vague allegations. Hence, the application is dismissed.

4. The contempt petition alleges breach of ad-interim order passed on 5th February 2024. The second appeal is admitted. Interim application is yet to be heard. I called upon learned counsel appearing for the petitioner to argue the interim application first. He submits that he is not carrying his papers of interim application and the second appeal and therefore, seeks time to argue the interim application.

5. By way of last chance to the appellant, list the Interim Application No. 8249 of 2024 in Second Appeal No. 76 of 2024 on 7th February 2025.

6. To be listed under the caption of circulation.

7. It is clarified that contempt petition will be heard after the interim application is decided.

[GAURI GODSE, J.]