

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO. 184 OF 2024

Ishlak Ismail Modak ...Petitioner
Versus
The Commissioner, Mira Bhayander Municipal Corporation & Ors ...Respondents

Mr Prashant K Aher, for the Petitioner.
Mr Narayan R Bubna, for Respondents Nos. 1 to 4.

SHEPHALI
SANJAY
MORMARE

Digitally signed by
SHEPHALI
SANJAY
MORMARE
Date: 2025.10.08
10:40:04 +0530

**CORAM: SUMAN SHYAM &
MANJUSHA DESHPANDE, JJ.**

DATED: 6TH OCTOBER 2025.

PC:-

1. Alleging wilful disobedience of the Order dated 10th December 2019 passed by a coordinate Bench of this Court (SJ Kathawalla and BP Colabawalla, JJ) in Writ Petition No. 3200 of 2019, the present Contempt Petition has been filed.

2. It appears that the Petitioner had earlier approached this Court by filing the Writ Petition No. 3200 of 2019 primarily seeking a direction upon the Respondent Corporation to take action for implementation of the order passed by the Contemnor No. 3. The effect of the order dated 13th April 2012 was for demolition of the building constructed by M/s New Micron Constructions which was named as “Rose CHS” over land at Old

Survey No. 508/16, New Survey No. 101/16, Plot No. 55, Bhayandar, Mira Road. The matter had also reached the Civil Court in R.C.S. No. 1552 of 2012 and R.C.S. No. 1563 of 2012, wherein some interim orders had also been passed. After hearing the submissions of the parties, this Court has passed order dated 10th December 2019. The operative part of the order reads as follows:-

“2. The Advocate for the Corporation submits that they are unable to take action in view of the order dated 4th October, 2016 passed by the District Judge-5 and Additional Sessions Judge, Thane directing the Corporation not to take any coercive action while setting aside the order of the Trial Judge dated 27th July, 2016 in R.C.S. Nos.1552 of 2012 and 1563 of 2012 remanding the matter back to the Trial Judge. However, we have noted from the order dated 4th October, 2016 that no coercive action is directed to be taken only upto 15th October, 2016. If the order of the Trial Court is not continued for any reason, the Corporation shall proceed to take action. The above Writ Petition is accordingly disposed of.”

3. The case of the Petitioner is that even after the lapse of several years, no action has been taken by the Mira Bhayandar Municipal Corporation for demolition of the building by implementing the order dated 10th December 2019 passed by this Court. Responding to the above, Mr Narayan Bubna, learned counsel appearing for the Respondents has argued that there are as many as two new civil proceedings pending before the Civil Court numbered and registered as RCS No. 196 of 2022 and RCS No. 162/2023 pertaining to the same Housing Society wherein interim orders have been passed. During the continuance of the interim orders, the Corporation cannot demolish the existing structure.

Therefore, it is not a case of wilful disobedience of the Court's order.

4. After going through the materials available on record, we find force in the submissions of the learned counsel for the Respondents. As long as the interim orders passed by the City Civil Court remain in force, the Respondent-Corporation cannot be expected to take action for demolition of the building. If that be so, it cannot be said that the Respondents are in contempt of the order dated 10th December 2019 passed by this Court.

5. For the reasons stated hereinabove, this Contempt Case is closed by granting liberty to the Petitioner to approach this Court at an appropriate stage, i.e., after the interim orders passed by the City Civil Court are vacated, if so advised.

(MANJUSHA DESHPANDE, J.)

(SUMAN SHYAM, J.)