

02&03 04.10.2023
NB Ct. 14

CRLCP 1 of 2019
In
CRR 979 of 2018
With
CRR 513 of 2021

In the matter of:- D & I Taxcon Services Pvt. Ltd.

Mr. Tapas Dutta,
Mr. Mrityunjoy Halder.
...for the petitioner.

Mr. Sandipan Ganguly Sr. Adv.,
Mr. Dipanjan Dutt.
...for the opposite party nos.2 to 6.

In Re:- CRLCP 1 of 2019

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is a victim of a fire that broke out in the premises where the petitioner was having its office. The petitioner had made an application for expeditious disposal of the proceeding before this Court. By an order dated 28.10.2016 passed by this Court in CRR 3513 of 2016, the learned Metropolitan Magistrate, 5th Court, Kolkata was directed to proceed with the trial of the case being GR Case No.894 of 2009 as expeditiously as possible, preferably within a period of six months from the date of communication of this order. This order was duly communicated before the learned Court, yet the learned Court failed to pay heed to the same and kept on fixing longish dates for hearing. The petitioner was constrained to move this Court again praying for expeditious disposal of the proceeding. By an order dated 20.06.2018 passed by this Court

in CRR 979 of 2018, a similar direction was passed requesting the learned Trial Court to conclude the proceeding expeditiously, preferably within a period of six months from the date of communication of this order. This order, although communicated, was not taken into consideration by the learned Magistrate for a very long time. In fact, the petitioner was constrained to move this Court with a writ petition in this regard. Finally, by an order dated 18.07.2018, a reference was made to such order and in spite of both the orders, the learned Court continued to fix long dates and the matter has remained pending.

It is indeed very surprising that the order of this Court, although communicated by the petitioner, did not even find any reflection in the order sheet for quite some time.

The learned Trial Court has given scant regard to the orders passed by this Court directing expeditious disposal of the case. There is huge workload in practically all Courts. But, the learned Trial Court ought to have understood that such orders are not passed by this Court in a routine manner. Only if the Court thinks that such an order needs to be passed in a particular case, the same is done and it is the duty of the learned Trial Court to comply with the same.

However, the directions passed by this Court in both the revisions were essentially directory in nature and not mandatory.

Therefore, it will not be proper to proceed with the contempt application any further.

Accordingly, the application for contempt is dismissed, however, without any costs.

In Re:- CRR 513 of 2021

At the outset it is pointed out by the learned senior counsel representing the opposite party nos.2 to 6 that there is a mismatch between the original affidavit of the revisional application and the corresponding copy of the same supplied to the opposite parties. In the copy that was supplied to the opposite parties, in the affidavit filed, the signatures of the advocate and the deponent are found blank. Yet, there is a signature and seal of the notary public concerned. This is an act of fraud committed by the deponent and the notary. The signature and seal of the notary was put on the documents first and thereafter, the deponent and the advocate signed. This point was raised in the opposition and this fact was admitted by the petitioner in his reply. The said opposite parties pray for liberty to proceed against the erring individuals in terms of Section 340 of the Code of Criminal Procedure.

At this stage, learned counsel for the petitioner prays for withdrawal of the revisional application. He further submits that during the covid period, there were some irregularities in the procedures employed and the petitioner offers an unconditional apology for the same.

On the prayer of the learned counsel appearing for the petitioner, the revision application is dismissed as withdrawn.

The dismissal of this application shall not preclude the opposite party nos.2 to 6 from making any application in terms of Section 340 of the Code of Criminal Procedure.

On the prayer of the learned senior counsel representing the private opposite parties, the original service copy produced by the petitioner before this Court is returned and a copy of the same as provided by the private opposite parties is taken on record.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)