

10th March,
2022
(AK)
74-75

WPCRC 18 of 2022
Arising out of
CPAN 352 of 2020
IA No: CAN 1 of 2020
(Old No: CAN 3705 of 2020)
With
W.P.A 1141 of 2020

Subara Sarkar and another
Vs.
Siddhartha Sankar Mondal and others

Mr. Mohinoor Rahaman
Ms. Maria Rahaman
...for the applicants/petitioners.

Mr. Amitesh Banerjee
Ms. Ipsita Banerjee
...for the State/
alleged contemnor nos.1 and 5.

Mr. Partha Sarathi Das
...for the alleged contemnor nos. 2 to 4.

Learned counsel for the applicants/petitioners contends vociferously, by filing a supplementary affidavit, that despite the specific order dated November 4, 2019 having been passed by this court in C.O. 3680 of 2019, restraining the private respondents from disturbing the peaceful possession and enjoyment of the petitioners and directing the police authorities to provide adequate police assistance in that regard, the police is sitting tight over the matter and the private respondents have been continuing to disturb the possession of the petitioners and to demolish the petitioners' hut.

Learned counsel appearing for the State in the writ petition, who is also representing some of the alleged contemnors in the present application, indicates that a partition is pending, which was decreed in preliminary form, against which an appeal is pending.

It is further contended that the police did seek to comply with the order of this court and had visited the locale, but found that there was no activity of people there. What was found was merely a broken bamboo structure.

Learned counsel appearing for the private respondents in the writ petition, that is, one of the present contemnors as well, denies the allegations made by learned counsel for the applicants and submits that no such act, as alleged by the petitioners, has been done by the private respondents.

In reply, learned counsel appearing for the applicants in the contempt application reiterates that one partition suit was decreed in preliminary form, against which an appeal is pending; however, the suit for declaration and injunction filed by the present applicants is also pending, in connection with which the revisional application was preferred before this court.

In view of contradictory stands having been taken on facts by the applicants and the private respondents, it would be difficult to ascertain as to whether the private respondents actually disturbed the possession of the

petitioners and as to whether the police authorities rendered any assistance at that point of time, by way of a local inspection. Hence, issuance of such a commission by appointing a Special Officer will be futile at this stage.

However, for a complete adjudication of the matter, the alleged contemnors are directed to file their respective affidavits-in-opposition on March 21, 2022. Replies thereto, if any, shall be filed by the applicants within the next returnable date.

The matter shall next be enlisted for hearing on March 24, 2022.

It is made clear that the affidavits-in-opposition used by the alleged contemnors shall be composite ones, covering both the writ petition as well as the supplementary affidavit.

(Sabyasachi Bhattacharyya, J.)