

APO No.103/2020
IA No.GA/1/2020

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

SUNITA SEAL AND ANR.

-Versus-

MRINAL LAL SEAL AND ANR.

BEFORE:

The Hon'ble JUSTICE I.P. MUKERJI

The Hon'ble JUSTICE MD. NIZAMUDDIN

Date : 5th October, 2020.

(Via Video Conference)

Appearance:

Mr. Swatarup Banerjee, Adv.

Ms. Somali Mukhopadhyay, Adv.

...for the petitioner.

Mr. Utpal Bose, Sr. Adv.

Mr. Sudarsan Roy, Adv.

...for the respondent.

The Court : This is an appeal from an order dated 18th September, 2020 passed by a learned Single Judge of this Court in a contempt proceeding.

First, we take note of the preliminary objection raised by Mr. Utpal Bose, learned Senior Advocate appearing for the alleged contemnors. He says that no appeal lies from the impugned order under Section 19 of the Contempt of Courts Act, 1971, inter alia, for the reason that the petitioner in a contempt application cannot file an appeal.

We deal with this objection in a different way. In the contempt application there was also a prayer, namely prayer (d) asking for an order to close the breach or prevent aggravation of contempt. Now, the learned Single Judge has refused to pass any order in respect of that prayer. Prima facie, in our opinion, an appeal lies from the said order under Clause 15 of the Letters Patent, if the cause of action is seen in that light.

As the issue involved is very short, we are minded to treat the appeal on the day's list and dispose of the same by this order, dispensing with all formalities.

As far as prayer (d) of the contempt petition is concerned, we direct the receivers appointed by this Court to put the gold and silver ornaments and utensils of the deity situated at 1C, Nalin Sarkar Street, Kolkata- 700 004 in a suitable container or box which may be locked by two locks and unlocked in the same way only in the presence of the Officer-in-Charge of the local police station. This box will be padlocked by Mr. Banerjee's clients as far as one lock is concerned and by Mr. Utpal Bose's clients as far as the second lock is concerned. They shall retain the respective keys. The Officer-in-Charge of the local police station shall affix a paper under his seal and signature on the box that it has been padlocked in the way directed by the Court. The possession of the box shall remain with the joint receivers and, the box is not to be removed from the said premises.

We are of the opinion that further orders with respect to the prayers made before us can only be made on a suitable application before the learned Single Judge. This order shall be taken as an exercise by the Court to prevent alleged aggravation of contempt by any party pending hearing of the contempt application.

The learned Single Judge exercising interlocutory, contempt or suit jurisdiction, shall only take this order as an interim measure.

The appeal (APO/103/2020) and the connected application (IA NO.GA/1/2020) are disposed of.

(I.P. MUKERJI, J.)

(MD. NIZAMUDDIN, J.)