

10.12.2021.
Court No.13
Item No. 166
ap

**W.P.A. No. 1012 of 2020
With
CAN 1 of 2021
(Through Video Conference)**

**Rabiya Bibi
Versus
The State of West Bengal & Ors.**

Mr. Aniruddha Bhattacharya.

...For the respondent no.5/Applicant.

Affidavit-of-service filed in Court indicates that the writ petitioner is not found in the address given in the cause title of the writ petition. The same is taken on record.

In Re: CAN 1 of 2021

CAN 1 of 2021 has been filed by the respondent no.5 in the writ petition seeking recall of the order dated 23rd June, 2021.

By the said order, this Court on the basis of the representation of the Counsel for the petitioner, has granted and allowed the writ petition to construct a boundary wall around the subject premises with police protection.

The said boundary wall has since been constructed, Counsel for the respondent no.5/applicant would seek recall of the order dated 23rd June, 2021 on the following grounds:

- (a) That the affidavit-of-service that was filed on the next day, as undertaken by the Counsel for the

writ petitioner on 23rd June, 2021 clearly indicates that the service has not been effected on the respondents herein.

- (b) That the order of the learned Executive Magistrate, Barrackpore and the Sub-Inspector of Police, Narayanpur Police Station dated 18th November, 2019 have been stayed by the learned Additional District Judge, 1st Court, Barrackpore in Criminal Revision Petition No. 576 of 2019 on 17th December, 2019. This has been suppressed by the writ petitioners.
- (c) There is a civil suit pending between the parties being Title Suit No. 144 of 2016 before the learned 1st Court of Civil Judge (Senior Division) at Barasat. In the said civil suit, inter alia, the writ petitioner and the private respondent were seeking partition of esmle property. This has been suppressed by the writ petitioners.
- (d) That similar prayers by the writ petitioner's husband have been rejected by this Court on 12th April, 2016 in W.P. No. 5500 (W) of 2016 (Md. Moniruddin – Vs. – The State of West Bengal & Ors.) and on 5th September, 2019 in W.P. No. 12084 (W) of 2018 (Md. Faridul Haque & Ors. – Vs. – The State of West Bengal & Ors.). This has also been suppressed by the writ petitioners.

- (e) That the said order dated 23rd June, 2021 was obtained by misleading this Court, suppression of the above material facts and/or a misstatement thereof.

This Court is prima facie satisfied as regards the grievance of the respondent no.5/applicant. This Court is, therefore, inclined to issue a suo motu Rule of Contempt against the original writ petitioner, namely, Rabiya Bibi.

The Rule is made returnable on 17th December, 2021.

The Inspector-in-charge, Narayanpur Police Station shall effect service of Rule on Rabiya Bibi with the help of the learned Executive Magistrate, Barrackpore in M.P. Case No. 3869 of 2019, the particulars and order whereof shall be supplied by the Counsel for the petitioner to the Registry of this Court as well as Inspector-in-charge, Narayanpur Police Station.

The petitioner and the Registry of this Court shall communicate this order along with all pleadings to the Inspector-in-charge, Narayanpur Police Station.

List the matter accordingly.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

