

34
02.07.2021
sb
Ct23

IN THE HIGH COURT AT CALCUTTA
Special Civil Jurisdiction
APPELLATE SIDE
(Via Video Conference)

CPAN 935 of 2005

In
SA 790 of 1999

Anjali Begum @ Hazera Begum & Ors.
Vs.
Mst. Rizia Begum

Mr. Partha Ptatim Mukhopadhyay
... For the applicant/petitioner.

Mr. Munshi Ashiz Elahi
... For the contemnors.

In re: CPAN 935 of 2005

The contempt application arises out of an order dated 5th September, 2003 passed in CAN 3763 of 1999 filed in SA 790 of 1999. The relevant portion of the order is set out hereunder:-

“Heard the learned counsel for the parties. Seen the photographs. The applicants are permitted to repair the portions of the suit premises which have been damaged, to complete the Bath-Rooms and to fix tubewell for drinking water. But the above work will not confer any right, title interest in the respondents/applicants in any manner whatsoever. The respondents/applicants are also restrained from inducting any other person excepting the respondents and their family members in and over the suit premises. It is also made clear that this construction will be without prejudice to the rights and contentions of the parties and this will not prejudice the appellant in any manner

whatsoever.

With the above directions this application is disposed of. There will be no order as to cost”.

The applicants/petitioners in the contempt application have alleged that the alleged contemnors had started raising new construction viz. A tile shed room and a septic privy at the suit premises though they were only permitted to repair the damaged portion of the suit premises and complete the bathroom and fix the tubewell for drinking water.

After passage of such a long time it is practically impossible to ascertain the nature of construction complained of which amounts to violation of the order dated 5th September, 2003. It is also practically impossible to come to a conclusion at the present after passage of a long period of time after hearing the parties as to whether there was any violation of the order or not in view of the nature of the order, the violation whereof is complained of in the contempt petition. I am told that the second appeal is ready for hearing. Whatever grievances the applicants/petitioners have as against the alleged contemnors who are also parties in the second appeal, can be agitated in the second appeal. There is no need to keep the contempt application pending which has become practically infructuous over the passage of time.

The contempt petition, being CPAN 935 of 2005 is disposed of without any further order.

In re: CPAN 338 of 2004

Musst. Rezia Begum & Anr.

Vs.

Anjali Begum alias Hazra Begum & Ors.

The contempt application arises out of an order dated 7th March, 2002 passed in CAN 9694 of 2001 as modified by the order dated 5th September, 2003 in CAN 2257 of 2003. The applicants/petitioners allege that on 4th February, 2004 at about 11 a.m. the contemnors/opposite parties along with some anti-socials forcibly and illegally trespassed into the suit land and by applying physical force covered some vacant portion by fencing the same with bamboos.

After passage of such a long time it is practically impossible to ascertain the nature of allegation complained of which amounts to violation of the order dated 5th September, 2003. I am told that the second appeal is ready for hearing. Whatever grievances the applicants/petitioners have as against the alleged contemnors who are also parties in the second appeal can be agitated in the second appeal. There is no need to keep the contempt application pending which has become practically infructuous over the passage of time.

The contempt petition, being CPAN 338 of

2004 is also disposed of without any further order.

(Arindam Mukherjee, J.)