

**M.A.T. 1853 of 2019
With
CAN 1 of 2019(Old CAN 11969 of 2019)**

**Sree Digambar Jain Balika Vidyalaya
Vs.
Smt. Kamalesh Jain @ Kamlesh Jain & Ors.**

Mr. Moti Sagar Tewary For the Appellant.

**Mr. Krishna Das Poddar
Mr. Ayan Mitra .. For the Respondent.**

Re: 1 of 2019 (Old No. CAN 11969 of 2019)

This is an appeal from an order passed in exercise of the contempt jurisdiction of this court. Strictly speaking the order is not in exercise of that jurisdiction but an order directing payment.

The appellant who was not the party in the contempt application is given leave to prefer this appeal.

As the issue involved is very short, we treat the appeal as on the day's list and dispose of the same by this order.

S.D.

The order under appeal was made on 15th November, 2019. Submission on behalf of the petitioner before the learned single judge that about Rs.3.3 lakhs due and payable by the school to him, was recorded.

Learned counsel for the appellant appeared for the alleged contemnor in that court. In his presence this submission was recorded and the alleged contemnor was directed to “release the amount of Rs.3.3 lakhs together with interest to be calculated at the rate of 8% p.a. from 9th August, 2010 until the date such amount is released to the applicant/petitioner.”

The alleged contemnor is the secretary of the school.

Mr. Tewary for the appellant/school submits before us that this amount of Rs.3.3 lakhs did not represent the payment already made by the school to the respondent/writ petitioner. Further he was not given a chance to contradict the submission of the writ petitioner.

Therefore, the issue arises as to whether the submission as recorded by the court was correctly recorded or not?

Whether there is any error on the face of the record, on the basis of such submission?

In our view, in both cases the court before which the submission was made and recorded is the best judge.

In those circumstances, we dispose of this

appeal by directing that the appellant is at liberty to take such steps, available in law for vacation, review or modification of the order dated 15th November, 2019.

The connected stay application CAN 1 of 2019 (Old No. CAN 11969 of 2019) is also accordingly disposed of.

(I.P. Mukerji, J.)

(Md. Nizamuddin, J.)

