

112
23.06.2022
TN

WPCRC 18 of 2022
Arising out of
CPAN 352 of 2020
IA No: CAN 1 of 2020
(Old No: CAN 3705 of 2020)
In
WPA No.1141 of 2020

Subarna Sarkar and another
Vs.
Siddhartha Sankar Mondal and others

Mr. Mohinoor Rahaman,
Ms. Maria Rahaman,
Mr. Iqra Rahaman

.... for the petitioners

Mr. Partha Sarathi Das

....for the contemnor nos.2 to 4

Mr. Amitesh Banerjee,
Ms. Ipsita Banerjee

.... for the State

Learned counsel for the petitioners submits that, in gross violation of the order of this court, the alleged contemnors-authorities, that is, the local police, were compliant in the other alleged contemnors demolishing the construction standing on the disputed property.

Learned counsel seeks to rely on certain photographs annexed to the pleadings in connection with the contempt application.

Learned counsel appearing for the alleged contemnors/authorities squarely denies such allegations and places reliance on a report filed by the police, which indicates that there was no scope of violation of the order-in-question.

In a contempt application, it will be *de hors* the scope and jurisdiction of the court to ascertain the factual status at the juncture when the injunction order was initially passed. Since there is nothing on record to indicate as to what was the exact position of the disputed property at the juncture when the injunction order was passed, it would not be possible at this stage to arrive at a definitive finding as to whether there was a subsequent demolition and/or the police authorities were compliant in such action.

Moreover, there is nothing on record to show even *prima facie* that the alleged contemnors were involved in any such incident in any manner.

Hence, the extreme measure of issuing of Rule of Contempt cannot be resorted to in the present case on the mere allegations made in the representation of the applicants before the authorities.

Hence, CPAN 352 of 2020 is dismissed without any order as to costs.

The Rule, being WPCRC 18 of 2022, issued previously stands discharged accordingly.

In view of the above, IA No: CAN 1 of 2020 (Old No: CAN 3705 of 2020) is also disposed of.

However, it is made clear that the observations made herein will not affect the outcome of any pending application(s) before the civil court.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)