

**IN THE HIGH COURT AT CALCUTTA
SPECIAL CIVIL JURISDICTION
APPELLATE SIDE**

Present:

**The Hon'ble Justice Arijit Banerjee
and
The Hon'ble Justice Rai Chattopadhyay**

C.P.A.N. 1459 of 2022

arising out of

MAT 904 of 2022

in

RVW 184 of 2022

Kartik Chandra Kapas & Ors.

Vs.

Bikash Naskar & Anr.

For the Petitioner	: Mr. Saptangshu Basu, : Ms. Chaitali Bhattacharyya, : Mr. Mrinal Kanti Ghosh, : Mr. Chandranath Sarkar,
For the alleged contemnor no. 1	: Mr. Soumitra Bandyopadhyay, : Mr. Aniruddha Sen,
For the alleged contemnor no. 2	: Mr. Debajyoti Deb, : Mr. Pabitra Biswas,
Heard on	: 27/03/2025
Judgment on	: 22/04/2025

Rai Chattopadhyay, J. :-

1. On the allegation of wilful and deliberate violation of this court's order dated September 14, 2022, passed in RVW 184 of 2022, arising out of MAT 904 of 2022, the present contempt application has been filed. The alleged contemner is Sri Dipankar Biswas, the block development officer/executive officer, Das Pur-1, District Paschim Medinipur.

2. By dint of the said order dated September 14, 2022, the court had issued directions upon the alleged contemner, to take up the issue of payment of compensation to the petitioners and act in terms of the direction contained in the order dated February 15, 2022, passed by the learned Single Judge, in WPA No. 9117 OF 2020, and complete the exercise within two months.
3. In this regard it is also necessary that the order passed by the learned Single Judge, in WPA No. 9117 OF 2020, dated February 15, 2022, may also be looked into. The court had directed for assessment of compensation payable to the petitioner and for payment of the same to them, qua the plot in question, at the prevalent market rate.
4. The factual background of the case is required to be stated in a nutshell, which is as follows: the petitioners are the recorded owners of the plot of land in question. The plot of land has been utilised by the Panchayat authority, for the purpose of construction of road, without requisition or acquisition of the said land. No compensation has been paid to the petitioner for the same. That the said plot of land, after construction of road over there, has been utilised for public purpose. Hence, the learned Single Judge directed the Panchayat authority to take necessary steps for assessment and payment of compensation, to the petitioners at the prevalent market rates.
5. The order under contempt is one passed by this Court in a review application filed by the Panchayat Pradhan who stated that it is not the Panchayat or the Pradhan, but the Panchayat Samiti, who would be the appropriate authority to disburse the amount of compensation as the road was constructed on the land of the petitioner, at the instance of the said Panchayat Samiti. The said review petitioner sought for direction to be issued on the Sabhadhipati, Daspur-I Panchayat Samiti and the Executive Officer,

Daspur-I Panchayat Samiti. Therefore, in the said review application, to avoid controversy and delay, the Court had directed the alleged contemner to take up the issue of payment of compensation to the petitioners and act in terms of the directions of the learned Single Judge, in order dated February 15, 2022, in WPA No. 9117 of 2020.

6. The petitioners have alleged in this contempt application, regarding wilful and deliberate violation of the Court's order as above, by the said alleged contemner.
7. The petitioners are represented by Mr. Basu, learned senior counsel. He has categorically put forth the petitioner's grievances and as to how the Court's order has been violated by the said alleged contemner. He says that at the first instance, the alleged contemner has calculated compensation for a lesser amount of land than it has consumed for the purpose of construction of the road. He says that though 46.364 decimal of land has been utilised by the same, initially it had calculated compensation for only 30 decimal of land. However, at a later stage the error as above has been rectified and compensation has been ascertained for 46.364 decimal of land. According to the petitioner the second round of valuation is also not done in lawful and proper manner, in so far as the same has not been done in due consideration of the prevalent market value of the land. Hence the petitioner is not agreeable to accept the erroneous valuation and the compensation amount of the land utilised by the alleged contemner. It is also submitted that as such it can be construed that the alleged contemner, having not remitted the compensation amount to the petitioner as yet, in terms of the prevalent market price, has wilfully and deliberately violated the order of the Court dated September 14, 2022.

8. Mr. Bandopadhyay appears for the alleged contemner and submit that in the contempt jurisdiction the Court has hardly any scope to go beyond the order under contempt. That it is a matter between the Court and the alleged contemner and the Court only sees if its order has been complied with by the alleged contemner, in its letters and spirit or not. According to him, there is hardly any scope for the Court, while sitting in the contempt jurisdiction, to decide about the question as regards the legality and propriety of the order passed by the said alleged contemner.
9. To such submission of Mr. Bandyopadhyay, Mr. Basu has serious objections to raise. He says here that though the land of the petitioner has been utilised by the alleged contemner for public purpose, but acquisition thereof has not been done through any proceeding in accordance with law, for such acquisition of the land. He says that under such circumstances, the petitioners have no forum to agitate their grievance, as regards the compensation determined for the said land already acquired. He has stated further that unless the petitioners are allowed to raise their grievance regarding the amount of compensation as determined by the alleged contemner ignoring the prevalent market valuation thereof, the petitioners would practically be non-suited.
10. Having heard the learned counsels of the parties, the Court is of the opinion that contempt jurisdiction of the Court is attracted when disobedience of the Court's order is wilful and contumacious. Therefore before exercising contempt jurisdiction the Court must be satisfied about firstly, disobedience of the order passed by it by the alleged contemner and thereafter, that such violation has been made wilfully and deliberately by the said alleged contemner.

11. In this case, in the order of the Court dated September 14, 2022, the Court had directed that the alleged contemner being the executive officer of Daspur-I Panchayat Samity should take up the issue of payment of compensation to the writ petitioners and act in terms of the direction contained in the order of the learned Single Judge.
12. Admittedly the alleged contemner has taken up the issue of payment of compensation to the writ petitioners and has ultimately come to quantify and determine the amount of compensation payable to the petitioners, for the land of them, taken over by the said alleged contemner, for construction of road.
13. In such view of the facts, the Court is of considered opinion that there has not been any '*disobedience*' by the alleged contemner of the Court's order dated September 14, 2022, in order to espouse the Court's contempt jurisdiction, as prayed for. Hence the contempt application would not be maintainable. The question now relates to dissatisfaction of the petitioners as regards the amount of compensation so arrived at by the said Block Development Officer and Executive Officer Daspur-I Panchayat Samity. Allegedly, the compensation amount has been determined not in accordance with and commensurate to the prevailing and appropriate market value. Hence, the amount of compensation as determined is erroneous and not maintainable. However, since the compensation has not been determined in a duly established procedure and manner for determination of land acquisition compensation, the petitioners here would not be eligible to pursue the statutory remedies to challenge the quantum of compensation so determined, in accordance with the provisions, under the relevant statute relating to the land acquisition.

14. In exercise of the contempt jurisdiction, the Court not only has the power to punish the contemner, but also to enforce the order passed by it. In the case of *Kanwar Singh Saini vs the High Court of Delhi (2012) 4 SCC 307*, the Supreme Court has held that the contempt proceedings which are summery and discretionary in nature, can be exercised when the effective alternative remedy is not available.
15. Hence, in this order, though having held that no contempt of the Court's order has been committed by the said Block Development Officer and Executive Officer Daspur-I Panchayat Samity, the Court is inclined to direct further that the petitioners shall be at liberty to approach the appropriate Court of Law, to challenge the order of compensation as passed by the said Block Development Officer and Executive Officer Daspur-I Panchayat Samity, if at all, as if it was an order passed by the competent authority, in a duly initiated proceedings for land acquisition, in accordance with the law. This is in addition to and not in derogation of any other remedy that the petitioners may take recourse to, in accordance with law.
16. With the findings, observations and directions as above, the instance case being CPAN No. 1459 of 2022, is disposed of.

(Arijit Banerjee, J.)

(Rai Chattopadhyay, J.)