

01.04.22
SI-04
Ct.32
(S.R.)

C.P.A.N. No.907 of 2019
in
W. P.A. No.5679 of 2019
Sri. Pasupati Halder
v.
Khalil Ahmed & Anr.

Mr. Alope Kumar Ghosh
Mr. Arijit Dey ... for the alleged contemnors.

Records reveal that no one appeared on behalf of the petitioner when the matter was last taken up for hearing on 30th April, 2021. Today also no one appears on behalf of the petitioner and no accommodation has been sought for.

Mr. Ghosh, learned advocate, assisted by Mr. Dey, learned advocate, appearing for the alleged contemnors submits that pursuant to the order passed by this Court an affidavit-in-opposition to the contempt application has already been filed and a copy of the same has also been served upon the learned advocate appearing for the petitioner.

Placing reliance upon the averments made in the affidavit-in-opposition filed on behalf of the alleged contemnor no.2, Mr. Ghosh submits that several complaints were lodged by local residents alleging that a water body in the premises no.164, Swinhoe Lane, Kolkata-700042 was being illegally filled up. Responding to the complaints lodged, a show-cause notice was issued by the KMC authorities and the owner was requested to restore the pond. As no steps were taken by the owner to restore/maintain the water body, KMC, with a view to

prevent environmental degradation, took steps to clear and restore the water body at its own costs. Subsequent thereto, the writ petition was preferred by the petitioner alleging, *inter alia*, that he had been sought to be forcibly dispossessed from the concerned premises. Such contention is absolutely unfounded inasmuch as no person occupying any portion of the concerned premises was dispossessed.

Mr. Ghosh, however, on behalf of the alleged contemnors, prays for unqualified apology for any unintentional violation of the order.

In the order passed by this Court on 14th March, 2019 in W.P. No.5679 (W) of 2019, it was recorded that no person occupying any portion of the concerned premises shall be dispossessed by the authorities of KMC except by due process of law. The issues as to whether the petitioner was in possession at the material point of time and as to whether he had been forcibly dispossessed involve disputed questions of fact. From the records, it does not appear that there had been any deliberate or wilful violation of the order passed in the writ petition.

For the reasons discussed above, the contempt application is dismissed.

There shall be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Tapabrata Chakraborty, J.)

