

(32)
07.06.2022
(p.jana)

**IN THE HIGH COURT AT CALCUTTA
SPECIAL CIVIL JURISDICTION
(CONTEMPT)**

CPAN 1066 of 2021

**Vijay Kumar Agarwal
-versus-
Mr. Niraj Kumar Dhoot & ors.**

Mr. Rupak Ghosh,
Mr. Saudull Abedin,
Mr. Ayan Dutta,
Ms. Pooja Singh,

... for the petitioner.

This is an application under Section 10 of the Contempt of Courts Act, 1971.

The petitioner is the defendant no. 7 of the Title Suit No. 919 of 2018 pending before the 2nd Court of learned Civil Judge(Senior Division), Barasat, District: 24 Parganas (North).

The prayers of the petitioner for delivery of interrogatories under Order XI Rule 2 of the Code of Civil Procedure, discovery of documents on oath by the plaintiff under Order XI Rule 12 thereof and supply of the documents relied on by the plaintiff was allowed by the learned Trial Judge vide order no. 14 dated February 24, 2021.

The petitioner has filed the present application alleging willful non-compliance of the said order of the learned Trial Judge.

Mr. Rupak Ghosh, learned counsel for the petitioner, submits that the plaintiff till date has

willfully not complied with the order of the learned Trial Judge and to protect the dignity of Court the plaintiff should be held up in contempt and in support of his said submission, he cites the decision of the Hon'ble Supreme Court in the case of **Maninderjit Singh Bitta -versus- Union of India and others** reported in **(2012) 1 SCC 273**.

Heard Mr. Ghosh perused the materials on record.

For non-compliance of the order of discovery, the consequence contemplated under Order XI Rule 21 of the Code will follow, the contempt being an extraordinary jurisdiction cannot be exercised to overreach the provision of the Code.

The decision of the Hon'ble Supreme Court cited by Mr. Ghosh has no manner of application in the facts and circumstance of the present case.

CPAN 1066 of 2021 is therefore dismissed.

However, there shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the party subject to compliance of all requisite formalities.

(Biswajit Basu, J.)