

29.09.2022

Sl.No. 6

Ct.No.3

Amalranjan

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

MAT 1509 of 2022

Subrata Banerjee

VS

Miss Alpana Haldar & Ors.

With

CAN/1/2022

With

CAN/2/2022

Mr. Dilip Kumar Samanta

Ms. Debapriya Samanta

...for the appellant

Mr. Mukul Lahiri, Sr. Adv.

Mr. Durga Prasad Dutta

Mr. Souvik Sen

Mr. Sumanta Ganguly

...for the private respondent/writ petitioner

Mr. Swattak Bhattacharya

Mr. Aushutosh Bhattacharya

...for the respondent no. 6

Mr. Pantu Deb Roy, ld.AGP

Mr. Pannalal Bandopadhyay

...for the State

Re: CAN/1/2022

(application for leave to appeal)

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CAN 2/2022 (stay)

This is an appeal from two orders dated 26th August, 2022 and 9th September, 2022. It was made by a learned single judge of this court in exercise of his contempt jurisdiction.

We are well aware of the law that unless there is some kind of punishment no appeal lies from an order passed in exercise of the contempt jurisdiction, under Section 19 of the Contempt of Courts Act, 1971.

Admittedly, no punishment has been imposed by the said two orders.

The appellant before us is Subrata Banerjee.

Mr. Dilip Kumar Samanta, learned advocate appearing for him, brings to our notice two passages from the order dated 9th September, 2022:-

“I direct the petitioner to add this Subrata Banerjee as alleged contemnor in the contempt application in course of the day and to serve a copy upon him forthwith.

.....

.....

I have already suspended the permit of the bus for one year from 26.08.2022 but it has been admitted by Mr. Shibnath Banerjee, the contemnor, and also by Mr. Durga Prasad Dutta, learned advocate for the applicant, that those two buses are still plying.

Therefore, I direct the Superintendent of Police, Purulia to take those buses (run from

Jhalda of Purulia to Karunamoyee, Salt Lake) in his custody through any of the police stations under him by 12.09.2022 and I also direct the Commissioner of Police, Bidhannagar Police Commissionerate to take into custody those two buses, if found in Karunamoyee bus terminus, in his custody through any of his police station by 12.09.2022.

I direct the Registrar General to send copy of the said order to the said Superintendent of Police, Purulia and the Commissioner of Police, Bidhannagar Police Commissionerate for their compliance as to taking custody of the buses immediately.

List this matter on 23rd September, 2022 under the heading 'Contempt Application' when it will be taken up at 12.30 p.m."

He submits that his client, Mr. Subrata Banerjee is the owner-cum-permit holder of the two vehicles and that seizure of these vehicles has been ordered without making him a party and without hearing him.

This contention is seriously contested by Mr. Lahiri, learned senior advocate appearing for the private respondent/writ petitioner, who says

that in collusion with Subrata Banerjee, Shibnath Banerjee had transferred his permit to him after this court's order to enable its violation.

Mr. Samanta, learned advocate for the appellant says that the appeal from this part of the order is maintainable under Clause 15 of the Letters Patent Act, 1865, since this order affects Subrata Banerjee who is not a party to the proceeding and results in civil consequences for him.

This contention of Mr. Samanta is sustained.

Considering the submission, we direct the said part of the impugned order be kept in abeyance till 23rd December, 2022.

The factual issue with regard to the involvement of Subrata Banerjee in violation of the said order of this court be adjudicated upon by the learned single judge and thereafter appropriate orders be passed for continuance of the said part of the order or setting it aside. It will be open to his Lordship to extend this interim order, if consideration takes more time.

The appeal and the connected applications are disposed of with the above directions.

(Biswaroop Chowdhury,J.) (I. P. Mukerji,J.)