

26.
21-12-2022
debajyoti
(Ct. no.06)

CPAN 984 of 2018
in
MAT 1499 of 2017

Manoj Kumar Pandey & Anr.
Vs.
Gopal Bhattacharjee & Anr.

Mr. Uday Narayan Betal,
Mr. Partha Sarathi Mondal

... For the Petitioners.

Mr. Abhijit Bhuina,
Mr. Md. Bani Israil,
Mr. Kanchan Gupta,
Mr. Amardeep Singh

... For the Contemnors.

Affidavit-in-Opposition filed in Court today be
taken on record.

This contempt application was filed alleging
wilful violation of an order dated January 04, 2018,
passed by a coordinate Bench, of which one of us was
a member (Arijit Banerjee, J.). The operative portion of
the said order reads as follows:

“ Considering the explanation given
by the writ petitions/respondent nos.1
to 3, we modify the said direction to
this effect that the writ
petitioners/respondent nos.1 to 3 will
deposit a sum of Rs.15,00,000/- (Rupees
fifteen lac only) with the learned
Registrar General of this Hon’ble Court
by tomorrow and the balance amount will
be deposited by those writ
petitioners/respondents with the learned
Registrar General of this Hon’ble Court
by the end of this month i.e. 31st
January, 2018.

The writ petitioners/respondents
are restrained from transferring any
flat until such deposits are made
without leave of the Court.

The order dated 14th November, 2017
is modified to the above extent.

The execution of the warrant of arrest issued by the State Commissioner will be kept in abeyance until further order. ”

The appellants/petitioners were desirous of purchasing a flat from the respondents/contemnors. Accordingly, the appellants paid to the respondents a sum of Rs.27,90,000/-.

It appears that possession of the flat was never delivered to the appellants. The appellants approached the Consumer Forum. The West Bengal State Consumer Disputes Redressal Commission (in short “the Commission”) passed a decree for the aforesaid sum in favour of the appellants and passed other consequential orders. The appellants put such decree into execution. The Executing Court passed an order directing refund of the consideration money together with interest to the appellants herein. Such order was challenged by the respondents by way of a writ petition. The learned Single Judge, by way of an interim order, stayed the operation of the portion of the order directing refund of the consideration money along with interest. Being aggrieved, the present appellants filed the appeal wherein the order dated January 04, 2018 came to be passed.

Initially, an order dated November 14, 2017 was passed by the Division Bench. By the order dated January 04, 2018, such order was modified.

The respondents deposited a sum of Rs.15,00,000/- with the Registrar General of this Court. The balance sum was not deposited by them. This prompted the appellants to file the present contempt application for alleged violation of the order dated January 04, 2018.

It now transpires that since the entire sum, as directed by the Division Bench, was not deposited by the respondents, the execution case continued. In the execution case, the respondents paid to the appellants a sum of Rs.13,50,000/-.

In the meantime, a question of law was pending before a Larger Bench, i.e., whether the Consumer Forum has jurisdiction to entertain the complaint of a home-buyer. That question has been answered and the jurisdiction of the Consumer Forum has been upheld. Hence, it cannot be anybody's contention that the decree passed by the Consumer Forum is a nullity.

In view of the aforesaid position, there is no reason for us to keep the contempt application pending. We direct the Registrar General of this Court to make over to the petitioners herein the amount that is lying invested as per the order dated January 04, 2018, along with accrued interest. Let this be done within two weeks after the Christmas Vacation (January 16, 2023).

In the facts and circumstances of the case, we do not find any wilful violation of the order dated January 04, 2018, by the respondents. CPAN 984 of 2018 is, accordingly, disposed of. We clarify that disposal of this contempt application and any observation in this order will not have any bearing on the execution case that, we are told, is still pending.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Apurba Sinha Ray, J.) (Arijit Banerjee, J.)