

**In The High Court At Calcutta
Special Civil Jurisdiction
Appellate Side**

**C.P.A.N. 833 of 2023
in
W.P.A. 26150 of 2022
IANo: CAN 1 of 2023
CAN 2 of 2024**

**Sanjib Ganguly & Anr.
-versus
Abhijit Banerjee & Ors.**

**Mr. Abhijit Basu.
Ms. Susmita Saha Dutta.
Mr. Dipjyoti Chakraborti.
Mr. Niladri Saha.
...For the Petitioners.**

**Mr. Samrat Sen. Ld. AAAG
Ms. Ipsita Banerjee.
Mt. Tarak Karan.
... For the alleged
contemnor Nos. 4 and 5.**

**Mr. Alak Kumar Ghosh.
Mr. Mihir Kundu.
... For the KMC.**

**Mr. Sirsanya Bandopadhyay.
Mr. Rahul Kumar Singh.
Mr. Avishek Guha.
Ms. Shilpi Das.
... for the applicant of CAN
1 and 2 of 2024.**

1. The petitioner alleges violation of the directions passed in the order dated 19th December, 2024. On a perusal of the said order it appears that the same was passed relying on the mutation certificate issued by the Kolkata Municipal Corporation indicating recording of the property at 45B, Jainuddin Mistry Lane, Kolkata- 700 027 in favour of Sri Bubai Acharya.

2. The Court took note of the communication made by the Chief Engineer of the Housing Sector, KMDA dated 16.09.2022 which mentions the premises No. 41/1A, Jainuddin Mistry Lane (portion) .
3. An application for modification of the order passed by the Court on 19.12.2022 being CAN 1 of 2023 has been filed mentioning that the correct address of the plot no. is 44/1A and not 41/1A as mentioned in the communication dated 16.09.2022. Prayer has been made to modify the plot number in the order dated 19.12.2022 and incorporate the correct plot number therein.
4. A further application for vacating the said order being CAN 2 of 2022 has been filed seeking vacating the restraint order passed by the Court restraining the respondents from interfering in any manner whatsoever with the actual possession of the property of the petitioners standing at premises No. 45B, Jainuddin Mistry Lane.
5. It has been brought to the notice of the Court that mutation of premises no. 45B in favour of the petitioners has since been cancelled by the Assessor Collector, (South) KMC vide order dated 24.08.2024.
6. On hearing the aforesaid submission it appears that the very basis of passing the order, that is the mutation certificate in favour of the petitioners, has since been cancelled. The cancellation is reported to be under challenge before a Co-ordinate Bench of this Court. In the contempt application, the Court is not in a position to ascertain the correctness of the order of cancellation.
7. In the aforesaid facts and circumstances the Court is not inclined to either modify or vacate the order passed by this Court. The Court is not interfering with any direction passed in the order dated 19.12.2022. It will be open for the parties to raise all

issues before the competent Court having jurisdiction.

8. The application for contempt and the connecting applications stand disposed of.

CAN 1 of 2023

1. The original CAN 1 of 2023 is not on record. Photocopy of the same is retained with the Court records which may be returned to the learned advocate representing the applicant after the original is tagged with the file.
2. Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)