

09-06-2023
ct no. 13
sl. no. 31
sp

WPA 67 of 2022
With
CAN 1 of 2023
Prasanta Biswas
-Versus-

The State of West Bengal & Ors.

Mr. Moniruzzaman,
Mr. Jahangir Badsha
...for the applicant (in CAN 1 of 2023)
& (respondent no.9 in WPA 67 of 2022)

Md. Taimur Hossain
...for the petitioner (in WPA 67 of 2022)

CAN 1 of 2023

1. CAN 1 of 2023 has been filed by the respondent no. 9, Biswanath Mondal, seeking recall of the order dated February 7, 2023 on the grounds that,

(a) the writ was not served on him, and

(b) the writ petitioner has suppressed the material facts of pendency of two civil proceedings.
2. The first of such proceeding is T.S. 73 of 2021 filed by the petitioner Prasanta Biswas against the applicant Biswanath Mondal before the Civil Judge (Senior Division), Ranaghat, Nadia. The second is Title Appeal No. 2 of 2020 before the Additional District Judge, Ranaghat, Nadia arising out of a decree dated June 30, 2019 in T.S No. 51 of 2002 passed by the Civil Judge (Senior Division) at Ranaghat, Nadia.

3. The affidavit of service of the writ petition indicates that the postal authorities could not serve the applicant Biswanath Mondal as he was not found.
4. The fact, however, remains that the petitioner's statement in paragraph no. 5 of the writ petition that there were no civil proceedings, is admittedly a false and misleading statement. The petitioner is guilty of suppression of material facts.
5. In those circumstances, the order dated February 7, 2023 shall stand recalled.
6. The writ petition shall stand dismissed.
7. The parties may agitate their rights in the pending civil suit and appeal.
8. CAN 1 of 2023 is hereby disposed of.
9. There shall be no order as to costs.
10. The police shall continue to ensure that there is no breach of peace in the area and strictly comply with any orders that may be passed by the Civil Court on them specifically.
11. The documents in respect of the civil proceedings filed by the parties are kept on record.

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

(Rajasekhar Mantha, J.)