

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

Before:

The Hon'ble Mr. Justice Jay Sengupta

CPAN 162 of 2021

In

WPA 5494 of 2020

Chhabi Das

Vs.

State of West Bengal & Ors.

For the Petitioner : Ms. Pampa Dey Dhabal,
Mr. Ashok Kr. Jana,
Mr. Krishna Deo Das

For the State : Mr. Raja Saha,
Ms. Rupsha Chakraborty.

For the Howrah Municipal Corporation. : Mr. Sandipan Banerjee,
Mr. Ankit Sureka,
Mr. Sobhan Majumder.

For the Alleged Contemnor No.5. : Mr. Souvik Das,
Mr. Rudranil Das.

Heard on : 21.03.2023

Judgement on : 21.03.2023

Jay Sengupta, J. :

1. This is an application under Section 17 of the Contempts of Courts Acts, 1971 read with Article 215 of the Constitution of India in respect of a

purported violation of an order dated 09.09.2020 passed by this Court in WPA 5494 of 2020.

2. Learned counsel appearing on behalf of the applicant/petitioner submits as follows. On 09.09.2020, this Court passed an order directing the respondent no.2 i.e. the Commissioner, Howrah Municipal Corporation to consider the representation made by the petitioner in respect of the alleged illegal construction in the plot in question within a month from the date and pass an appropriate order after hearing all the parties. In the meantime, the respondents shall ensure that no illegal construction takes place at the plot in question without or beyond a valid sanctioned plan. This order was duly communicated by the petitioner to the respondents. In spite of this, the illegal construction did not stop. After the violation of this order was notified to the respondent authorities, a notice was sent by the Howrah Municipal Corporation to the errant individual. However, the hearing did not take place in time nor was the alleged illegal construction stopped. At this stage, the petitioner moved an application for contempt of Court. Subsequently, by an order dated 05.12.2022 passed after hearing the parties, the AE In Charge, Building Department, Howrah Municipal Corporation directed the respondent to cause self-demolition of the unauthorised construction as mentioned in the Inspection Report within 15 days from the date of receipt of the order, in default the HMC would cause demolition of the unauthorised construction at the cost of the respondent. This was clearly not sufficient

compliance of the order. An order to demolish the structure should have been passed instead of the self-demolition order.

3. Learned counsel appearing on behalf of the Howrah Municipal Corporation submits as follows. The respondent authorities have fully complied with the order passed by this Court. After the time period for self-demolition expired, the Municipal Corporation has already given a notice to the police for sufficient police help and a date to be fixed for demolition of the illegal construction.
4. Learned counsel appearing on behalf of the State submits that there is no violation of the order passed by this Court. The hearing was done. An order of self-demolition was passed in default it was directed that the Municipal Corporation would demolish the alleged illegal structure within a stipulated time.
5. Learned counsel appearing on behalf of the alleged contemnor no.5 submits that his client has not violated any order passed by this Court. He had only made construction which was within the sanctioned plan. After the order was passed, no order of the same have been available to his client. A copy of the same has only been served to him in Court today.

6. I have heard the submissions of the learned Counsels appearing on behalf of the parties and have perused the application and the affidavits filed.
7. It appears that pursuant to the order passed by this Court, the Howrah Municipal Corporation took up the matter for hearing and decided on the same. An order was passed for self-demolition, in default, the Municipal Corporation would demolish the illegal construction within a stipulated time. It is also submitted by the Corporation that the local police has been notified for rendering adequate help and fixing the date for such purpose.
8. It appears that the Municipal Corporation duly considered the petitioner's representation and passed a self-demolition order, in default to demolish the illegal structure itself. They also purportedly notified the police seeking assistance for this.
9. Therefore, it does not appear that the alleged contemnors have violated any order passed by this Court.
10. In view of the above, this Court does not find any need to proceed with the contempt application any further and the application is thus disposed of.
11. However, there shall be no order as to costs.

12. Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)

Sl. 84/NB