

15.09.2023
SL No.2
Court No.8
(gc)

**CRC 9 of 2022
CAN 1 of 2023
In
FMAT 622 of 2021**

**Yogesh Gupta & Anr.
Vs.
Raj Kishore Modi, Director,
Vedic Village Developers Pvt. Ltd.**

Mr. Rupak Ghosh,
Mr. V.V.V. Sastry,
Mr. Vishwarup Acharyya,
...for the Petitioners.

Mr. Ishaan Saha,
Mr. Aishwarya Kumar Awasthi,
...for the alleged contemnor.

1. From the conflicting claims with regard to the property where the constructions alleged to have been made by third parties, Mr. Rupak Ghosh, learned Counsel appearing on behalf of the applicants has submitted that the properties over which constructions are now being made belonging to the Vedic Village Developers Pvt. Ltd. and the claim of the alleged contemnors that they are not the owners of the property in question is utterly false.
2. In fact, in order to ascertain the real identity of the persons and/or entities having possession of the property in question or had the right, title and interest over the property when the agreement was entered into between the applicants and the alleged contemnors, we directed the learned Trial

Court to appoint a Commissioner and we have been informed that the Commission work is continue. The real picture would emerge only after the report is filed by the Commissioner and decision is taken with regard to the report to be filed by the Commissioner in the proceeding pending before the learned Trial Judge.

3. In view of the submission made on behalf of the alleged contemnors that the right, title and interest are of Vedic Village Developers Pvt. Ltd., we dispose of this contempt application by giving liberty to the learned Trial Judge to direct demolition of structures raised in the disputed property only on ascertaining that Vedic Village Developers Pvt. Ltd. remained as the owner of the property in question.
4. In the addition to the aforesaid, proceedings for perjury may also be initiated against the alleged contemnors for filing false affidavit.
5. We make it clear that any person, who has raised construction and intending to make any such construction over the disputed property, will not be entitled to claim a bona fide purchaser for value without notice. Any party making any construction on the said property shall be at their own risk and peril and it shall not create equity in their favour.

6. Vedic Village Developers Pvt. Ltd. at its own cost shall publish this order once in the Times of India and once in Anandabazar Patrika within two weeks from date.
7. Copies of the orders shall be widely circulated by Vedic Village Developers Pvt. Ltd.
8. The Commissioner with the assistance of the parties and at their cost shall affix this order at the conspicuous places where the construction is being carried out or intended to be made.
9. We make it clear that the Trial Court shall not be influenced by any observation made in this order as the Trial Court has to proceed on the basis of the report of the Commissioner.
10. Accordingly, the contempt application stands disposed of with liberty to initiate contempt proceeding including perjury in the event it is found that the alleged contemnors have filed false affidavits and made misleading statements.
11. In view of disposal of the contempt application, the application being CAN 1 of 2023 also stands disposed of.
12. Rule stands discharged.

(Ajoy Kumar Mukherjee, J.)

(Soumen Sen, J.)