

AD-06
Ct No.09
01.09.2023
TN

CPAN 738 of 2023
in
WPA No. 4935 of 2023

Subrata Sarkar alias Gupi Sarkar and another
Vs.
Jageswari Devi Das

Mr. Pinaki Bhattacharyya,
Mr. Subhankar Dutta

.... for the petitioners

Mr. Bidyut Kr. Halder,
Mr. Upendra Roy,
Ms. Kanchan Roy,
Mr. Indranil Halder,
Ms. Neha Singh

.... for the alleged contemnor

Mr. Debanjan Mukherji

....for the CESC Limited

1. Learned counsel for the petitioners submits that immediately after taking electricity connection pursuant to the order of this court, the alleged contemnor has changed the nature and character of the disputed property, thereby deliberately flouting the order of this court.
2. A perusal of the said order indicates that this court had recorded, while disposing of the writ petition, that an eviction decree was obtained by present petitioners/landlords against the alleged contemnor, which was reversed in the first

appeal, against which a second appeal was preferred before this court. In the second appeal, an order of injunction, it was recorded, had been passed by this court restraining the alleged contemnor *inter alia* from changing the nature and character of the suit property.

3. At the time of passing of order by this court, the present petitioners had expressed the apprehension that the alleged contemnor might change the nature and character of the suit property, in the garb of taking electricity connection.
4. To allay such apprehension, it was observed, while directing the CESC Limited to give electricity connection to the alleged contemnor, that the said order would not confer any right on the alleged contemnor which he does not otherwise have in law and shall be without prejudice to the rights and contentions of the parties in the second appeal. That apart, it was recorded, during subsistence of injunction order passed by this court in second appeal, the petitioners shall not, in the garb of taking electricity connection or taking advantage thereof, change the nature and character of the suit property or in any manner violate the

injunction order passed by the second appellate court.

5. Since the petitioners allege that the alleged contemnor has violated the order of court after taking the electricity connection, the same cannot be strictly said to be a change in the nature and character “in the garb of taking electricity connection” but was an independent act of alleged violation of the order of the second appellate court.
6. Hence, contempt, if any, lies in respect of the order of injunction passed in the second appeal.
7. In such view of the matter, CPAN 738 of 2023 is disposed of by granting liberty to the present petitioners to approach the second appellate court with an appropriate contempt application, with the allegations of violation of the injunction order passed in the second appeal as made herein.
8. This court has not gone into the merits of the allegations between the parties and it will be open to the parties to agitate all points regarding the alleged contempt before the second appellate court.
9. There will be no order as to costs.

10. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)