

February 24, 2023
Sl. No.4
Court No.1
s.biswas

MAT 1048 of 2022
With
CAN 1 of 2022
Sujata Chatterjee
vs.
Sri Prolay Chakraborty and another

Mr. Subrata Mukhopadhyay,
Mr. Bhaskar Ghosh,
Mr. Sohom Saha, Advocates
... for the appellant
Mr. Raj Kumar Basu,
Mr. Somnath Roy, Advocates
... for the contemnor/respondent
Mr. Somnath Roy,
Mr. Raj Kumar Basu, Advocates
... for the Bhadreswar Municipality

This appeal under Section 19 of the Contempt of Court Act has been filed by the contempt petitioner challenging the order of the learned Single Judge dated 23.06.2022 passed in CPAN 913 of 2021 disposing of the contempt petition with certain liberty to the appellant.

Submission of learned counsel for the appellant is that the learned Single Judge had directed to decide the representation in accordance with law, but the Chairman of the Municipality has not considered Sections 2(3), 203 and 218 of the West Bengal Municipal Act, 1993. He submits that the encroachment has been done by the private respondent on the appellant's land and that it is a clear case of contempt.

Learned counsel for the Chairman, Bhadreswar Municipality has submitted that the direction issued by the learned Single Judge has been duly complied with and that the reasoned order in pursuance thereto has been passed. He has submitted that there was some delay in passing the reasoned order on account of COVID pandemic, hence learned Single Judge had extended the time.

Having heard the learned counsel for the parties and on perusal of record it is noticed that the writ petition being WPA 11466 of 2020 was filed by the appellant making an allegation that the private respondent had made the unauthorized construction. Learned Single Judge by order dated 15.02.2021 had considered the entire issue and had reached to the conclusion that a civil dispute exists between the parties and that the Municipality is not entitled to enter into any disputed question of right, title and interest of the parties. Since a representation at the instance of the appellant was pending, therefore a direction was issued to the Municipality to consider the representation in accordance with law and to take steps only if there is any construction which was made in contravention of the provision of law. The Municipality was directed to pass a reasoned order within a specified time. The order was not passed within the specified

time, therefore CPAN 913 of 2021 was filed by the appellant and on 21.04.2022, on the prayer of the learned counsel for the Municipality to extend time to comply with the order the contempt petition was adjourned. It is not in dispute that the Chairman of the Bhadreswar Municipality has passed the order dated 6th June, 2022 after giving an opportunity of hearing to the concerned parties. The Chairman has reached to the conclusion that only alteration of the door by the private respondent in the writ petition after taking permission from the Municipality was not unauthorized or illegal construction.

Learned Single Judge has disposed of the contempt petition noting that the order of the Court was complied with and leaving it open to the appellant to challenge the order passed by the Chairman of the Municipality before the appropriate forum in accordance with law.

In such circumstances, we are of the opinion that there was no willful non-compliance of the order of the learned Single Judge by the Chairman of the Municipality. Hence, No error has been committed by the learned Single Judge in disposing of the contempt petition. Thus, no case for interference in this appeal is made out, which is accordingly dismissed and the connected application also stands dismissed.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)