

16.06.2023
Court No.13
Item No.76
AP

WPA 25271 of 2022
With
IA NO: CAN 1 of 2023

Subhendu Sekhar Das and Ors.
Vs.
The State of West Bengal and Ors.

Mr. Sujit Kr. Rath

... For the Petitioners.

Mr. Nilotpall Chatterjee

Mr. Sourabh Sengupta

... For the applicants in CAN 1 of 2023.

CAN 1 of 2023

1. CAN 1 of 2023 has been filed by the private respondents in WPA 25271 of 2022 seeking recalling and/or modification of the order dated 16th May, 2023.

2. By the said order, an order of a Division Bench of this Court dated 1st August, 2019 in SA 134 of 2019 has been directed to be enforced by the Moyna Police Station.

3. Mr. Chatterjee, learned counsel for the private respondents/applicants submits that the petitioners have not informed this Court that an application for contempt and/or violation of the order of the Division Bench was already pending before such Bench. The applicants have also filed an application in the Division Bench for modification of the said order dated 1st August, 2019.

4. Learned counsel for the writ petitioners and the respondents in CAN 1 of 2023 indicate that the private respondents/applicants were duly served notice of the writ petition and they chose not to represent themselves.

5. It appears from the writ petition that at paragraph 6 of the writ petition, there is mention of an application for enforcement and/or complaining of violation of the order of the Division Bench dated 1st August, 2019. Such facts were, however, not placed before this Court formally by the learned counsel, who appeared for the writ petitioners on 16th May, 2023.

6. It is now well settled that a writ petition is normally not entertained to enforce an order of another Court. The writ petition was all the more not maintainable since the said second appeal before the Division Bench is pending and aggressively contested by the parties and the possession of either parties on the suit property was pending consideration before the Division Bench.

7. There is substance in the submissions of Mr. Chatterjee that the writ petitioner has suppressed material facts and/or has misled this Court into passing the order dated 16th May, 2023.

8. In these circumstances, the order dated 16th May, 2023 shall stand recalled.

9. The writ petition being WPA 25271 of 2022 shall stand dismissed.

10. This Court, however, chooses not to impose any costs on the writ petitioner for the reason that the applications/private respondents were duly notified by the writ petitioner and were equally responsible for not informing this Court of the proceedings in SA 134 2019.

11. Hence, CAN 1 of 2023 is hereby allowed and disposed of.

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

(Rajasekhar Mantha, J.)