

CAN 1 of 2024
in
W.P.C.R.C. 110 of 2024
In
CPAN 126 of 2024
arising out of
WPA 7404 OF 2019

Dilip Kumar Viswakarma
versus
Samiran Dutta and Ors.

Mr. Nirmalendu Ganguly
Mr. Angshunath Chakraborty

...For the petitioner/applicant

Mr. Alok Banerjee, Sr. Adv.
Mr. A. Mukherjee
Mr. P. Bose

...For the alleged contemnor no.1

Mr. Debnath Gosh
Mr. S.N.Arefin

...For the alleged contemnor no. 3

1. Complaining non compliance of the judgment and order dated 10th October 2023, the instant contempt application being CPAN 126 of 2024 has been filed. Subsequently, a rule had been issued. In response to the said Rule, originally an application being CAN 1 of 2024 was filed which was affirmed by one, Sujata Dasgupta, wife of Agnimoy Dasgupta, working for gain at Eastern Coal Fields Limited claiming to be competent to affirm the application on behalf of the applicants, being the contemnors herein, *inter alia*, praying for withdrawing / cancelling / setting aside of the Rule issued against the contemnors vide order dated 14th June 2024 in CPAN 126 of 2024.

2. Let it be placed on record that on 9th August 2024, the contemnor no. 3 in response to the Rule issued, was personally present in Court. This Court on the said date, upon hearing the contemnor no. 3, had dispensed with his personal appearance. On the said date it was submitted on behalf of the contemnor no. 1 that since he was in Delhi, he could not be personally present before this Court.

Admittedly, on the said date, no affidavit of compliance had been filed. The manner in which the application being CAN 1 of 2024 was filed in connection with WPCRC 110 of 2024 seeking cancellation of the Rule, is unknown in law.

3. Be that as it may, on 9th August 2024 this Court taking note of the non compliance of the Rule by the contemnor no.1, had adjourned the matter with a direction that on the returnable date this Court taking note of the non compliance of the rule by the contemnor no.1 shall pass appropriate order.

4. Today, Mr. Banerjee, learned Senior counsel appearing for the alleged contemnor no. 1 places before this Court a notarial affidavit, *inter alia*, claiming that the contemnor no. 1 was admitted at mission hospital, Durgapur since 15th August 2024 and had undergone an operation on 16th August 2024 and was likely to be released on 18th August 2024. Having regard to his health complication and comorbidities, since, he was advised to abstain from travelling, he had affirmed the affidavit before the Notary Public at Dhanbad on 19th August, 2024. Considering such special circumstances and in the peculiar facts of the case, though the conduct of the contemnor no.1 was not proper and though, there is no explanation on behalf of the contemnor no. 1 for filing the application being CAN 1 of 2024 through Sujata Dasgupta, however, since, Mr. Banerjee, learned Senior counsel appearing for the contemnor no. 1 and Mr. Ghosh, learned advocate appearing for the contemnor no. 3 submit that they do not intend to press the application being CAN 1 of 2024, let such application being CAN 1 of 2024 be dismissed as

withdrawn and the affidavit of the contemnor no.1 be taken on record.

5. The contemnor no.3 has, however, filed an affidavit of compliance in Court today, let the same be taken on record.

6. From a perusal of the aforesaid affidavit since, it appears that the contemnors have already complied with the direction passed by this Court and the applicant who is represented by his learned advocate would confirm the fact that the entire payment as payable to the applicant has already been disbursed in his favour, I am of the view that no fruitful purpose will be served in keeping the contempt application pending. Accordingly, by accepting the apology and the affidavit filed by the alleged contemnor nos. 1 and 3, the contempt proceeding is dropped and the Rule is discharged.

7. CPAN 126 of 2024 is accordingly disposed of.

8. All parties shall act on the basis of the server copy of this order duly downloaded from this Court's official website.

(Raja Basu Chowdhury, J.)