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**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

**CPAN 306 of 2024
In
W.P.A. 10263 of 2007**

**Smt. Gopa Chakraborty & Ors.
Vs.
Mr. Chandeshwer Prasad Singh The Estate
Officer/Senior Divisional Engineer, Metro Railway.**

Mr. Pampa Dey Dhabal.
.... For the Contempt Petitioners.

Mr. Sanjit Kumar Ghosh,
Ms. Sabita Roy.
... for the Contemnor/Respondent No. 6.

This contempt application challenges the willful and deliberate violation by the authority namely the Estate Officer, Senior Divisional Engineer, Metro Railway. By this Court's order dated 24th January, 2024 the Court directed as follows:

"In view of this, it is found proper that the operation of the notice under Section 147 of the Railway Act dated 10.01.2024 and 17.01.2024 issued by the respondent railway authorities be stayed for a period of fifteen (15) days from today."

The said order of stay was extended further vide order dated 7th February 2024 till 15th March, 2024 which has expired since thereafter.

Allegedly in spite of an order of stay being in vogue as above, the alleged contemnor has taken steps and evicted the contempt petitioners from their respective shop rooms and also issued the letter dated 10.02.2024.

Mr. Pampa Dey Dhabal, appearing for the contempt applicants has submitted that after evicting her clients from their respective shop rooms, the alleged contemnors issued the letter dated 10th February, 2024. Thus the alleged contemnor has willfully disobeyed and violated this Court's order, as above. Thus, the alleged contemnor has committed contempt of Court.

Mr. Sanjit Kumar Ghosh, is representing the respondent Railways. He has placed the checkered history of this case. According to him the writ petitioners including the contempt petitioners have never come before the Court with clean hands and allegedly they have been continuously flouting this court's order for payment of occupational charges. He has further pointed out in this contempt proceedings on the basis of the eviction report as annexed with the affidavit-in-opposition filed by the respondents, that the process of eviction has already been done on 17th January, 2024, when there was no order of stay passed by this Court. He has relied on the

record to show that the order of stay has been passed much later, only on 24th January, 2024.

So far as the letter issued by the alleged contemnor dated 10th February, 2024 is concerned, he submits that after eviction process being completed on 17th January, 2024 and the materials having been brought out from within the shop room and having been kept on the platform, the same was creating hindrance for easy movement of the passers-by who are huge in number through the platform as the said Metro Railway Station happens to be a busy place with huge footfall of daily commuters. He has further stated that letter dated 10th February, 2024 was issued only in continuation of the process already undertaken by the competent authority on 17th January, 2024 to vacate the concerned premises. Most importantly, it has further been submitted that, the petitioners had knowledge of eviction procedure having been undertaken at a date prior to issuance of letter by the alleged contemnor on 10th February, 2024. It is submitted that the petitioners have undertaken unfair means by suppressing the actual state of affairs. According to him, under such circumstances, there would not be any contempt committed by the alleged contemnor as urged.

No doubt, during pendency of the stay order of this court dated 24th January, 2024, a letter dated 10th February, 2024 has been issued by the alleged contemnor in connection with the earlier letter dated 10th January, 2024, regarding performance of which, this Court directed that the same should be stayed, vide its order dated 24th January, 2024. So far as the contention on behalf of the alleged contemnor is concerned, the same is corroborated from the document as annexed with the contempt petition i.e. letter written by the contempt petitioners to the Officer-In-Charge, Regent Park Police Station dated 18th January, 2023. They wrote about illegal eviction of shop on 17th January, 2024 by the concerned authorities.

Since the contempt would relate only to ascertainment of the fact whether or not the alleged contemnor has deliberately and willfully violated the Court's order to undermine the dignity and majesty of the Court, and nothing else, this court in this contempt petition has only to ascertain if there has been deliberate and willful violation by the alleged contemnor of the Court's order dated 24th February, 2024. However, the submissions of the learned advocates for the parties as well as documents as referred to above reveal that the process of eviction started much

prior to the date of the order of this court directing stay of eviction process initiated vide letter dated 10th January, 2024. The Court takes note of petitioner's letter to police dated 18th January, 2023. They, by dint of the same, had lodged a complaint against eviction and ransacking. The said letter contradicts, what the petitioners have stated in this petition regarding date of alleged eviction.

Under such circumstances, so far as this contempt petition is concerned, this court does not find any willful and deliberate disobedience of this Court's order since the process in terms of the letter dated 10th February, 2024 was started even before this Court passing the said order dated 24th January, 2024. The letter as mentioned above by the contempt petitioners, written before the police, has duly corroborated the truthfulness of the fact.

Under such circumstances, this Court finds that contempt petition would not be maintainable and the same is dismissed.

(Rai Chattopadhyay, J.)