

16.04.2024
Item No.09
RP
Ct. No.1

CPAN 548 of 2024

Chandra Bose
Vs.
Sanhita Ghosh

Mr. Arik Banerjee
Mr. Pujon Chatterjee
Mr. Saprativa Pal

.....for Applicant

1. This is an application under Section 10 read with Section 12 of the Contempt of Courts Act..
2. Affidavit-of-service filed in Court today is taken on record. In spite of service none appears to oppose this application.
3. The learned advocate appearing for the petitioner submits that in violation of the order dated 21st March, 2022 passed in Title Suit No.372 of 2022 the opposite party herein is carrying on construction in the suit premises. He further submits that the opposite party is using the suit property in spite of the fact that by the said order dated 21st March, 2022 she was restrained and prohibited from using the suit property as well as from entering into the same.
4. The petitioner filed an application under Order 39 Rule 2A of the Civil Procedure Code which was allowed ex parte by an order dated March 13, 2023 after passing certain direction. Since the

order was passed by the learned trial Judge in favour of the petitioner, there is no scope for this Court to grant any further relief to the petitioner with regard to implementation of the order of injunction passed on 21st March, 2022. With regard to the allegation of the petitioner that construction is being carried on by the opposite party in violation of the order of injunction this Court finds that the learned trial Judge by an order dated 21st March, 2022 only passed an order of injunction to the following effect.

“that defendant no.1 is hereby restrained and prohibited from creating third party right of the suit property and/or encumbering the same as well as restrained from using said property for any purpose and from stopping the petitioner and her family members from entering into the suit property till 21.04.2022.”

It appears that no restraint order with regard to raising construction in the suit property was passed by the learned trial Judge in the order dated 21st March, 2022. Therefore, this Court is not inclined to accept the contention of the learned advocate for the petitioner that construction is being made in violation of the order of injunction. However, taking note of the fact that the suit is proceeding ex parte and a

date for evidence has already been fixed, this contempt application is disposed of by requesting the learned Civil Judge, Senior Division, 10th Court, Alipur to take up the hearing of the Title Suit No.372 of 2022 on the next date fixed and to dispose of the same as expeditiously as possible without granting any unnecessary adjournments to the parties.

5. The learned advocate for the applicant submits that the opposite party is not allowing the petitioner to use the property. It would be open to the petitioner to approach the learned trial Judge for appropriate relief.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)