

16.08.2024
Item No.17
PG/ks
Ct. No.36

**CPAN 687 of 2024
in
W.P.A. 20191 of 2023**

**Animesh Maiti
Versus
Jayanta Paul being the
Executive Engineer at Diamond
Harbour Highway Divisional P.W. (Roads)
Directorate and another**

Mr. Tanmoy Basu
Mr. Debdip Mondalfor the petitioner

Mr. Somnath Ganguli, Ld. AGP
Mr. Balarko Sen.....for the alleged contemnors

Mr. Debnarayan Patra.....for the respondent nos. 10 &
11

1. The petitioner submits that the order of this Court directing the alleged contemnors to act on the representation of the petitioner and hold an enquiry regarding the illegal encroachment of P.W.D. property and thereafter to initiate expeditious proceedings was not followed.
2. Learned counsel for the alleged contemnor hands over written instructions dated August 9, 2024 in the form of a response to the contempt application from which it is indicated that pursuant to the direction of this Court incorporated in the order dated October 19, 2023 passed in W.P.A. 20191 of 2023, proceedings have been initiated under the appropriate statute for removal of the alleged illegal encroachment.

3. However, since the private respondents in the writ petition had preferred an appeal against the order under contempt, which was disposed of by the Division Bench only on August 5, 2024, the proceeding before the alleged contemnor was stalled for some time.
4. Learned counsel appearing for the private respondents in the writ petition points out that the order of this Court was modified by the Division Bench and as such, the contempt cannot proceed further. That apart, even on merits, learned counsel disputes the allegation that the private respondents in the writ petition are illegal encroachers.
5. Be that as it may, in the contempt application, the dispute between the private parties cannot be gone into on merits. What matters is that it is evident from the documents handed over in Court by learned counsel for the alleged contemnors, which are kept on record, that the order has been substantially complied with by undertaking enquiry and thereafter initiating proceedings for removal of unauthorised encroachment/occupation in due course of law.
6. The delay occasioned in the said proceeding was partially due to the challenge pending at the relevant juncture at the behest of the private respondents in the writ petition.
7. Since the Division Bench has now disposed of the appeal itself, it is expected that the alleged contemnors

shall make all endeavour to dispose of the proceedings finally at an early date.

8. In view of the above, this Court does not find that there is any deliberate or willful violation of the order of this Court on the part of the alleged contemnors.
9. Accordingly, C.P.A.N. 687 of 2024 is dismissed.
10. There will be no order as to costs.
11. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)