

21.08.2024
Item No.5
Daily List
Ct. No.26
CHC
(dismissed)

CPAN 959 of 2024

**Sri Sambhu Chorone Roquitte
Vs.
Sri Parbati Chorone Roquitte
in
FMA 1503 of 2017
Sri Anil Chorone Roquitte & ors.
Vs.
Sri Bhagawati Chorone Roquitte & ors.**

Mr. Saurabh Guha Thakurata, Advocate
Ms. Nilanjana Sarkar, Advocate
Mr. Abhratanu Sarkar, Advocate
....for the petitioner/applicant

Mr. Souradipta Banerjee, Advocate
Mrs. Fatima Hassan, Advocate
...for the alleged contemnor

1. Affidavit-in-opposition filed in Court be taken on record.

2. Petitioner alleges violation of the order dated January 17, 2017 passed in F.M.A.T.1124 of 2016.

3. Operative portion of such order is as follows:-

“Under such circumstances, we dispose of the appeal by restraining the parties from raising any construction and/or further construction on the suit property without any sanctioned plan or in deviation in the sanctioned plan during the pendency of the suit.”

4. It is alleged in the contempt petition in paragraphs 7 and 8 particularly 8 that, there are

changes in tenancies subsequent to the order dated January 17, 2017.

5. In the affidavit-in-opposition, alleged contemnor tabulates the rooms in question and the tenants or persons occupying the same. It is the specific stand of the alleged contemnor that, tenancy and/or occupation of the rooms in question were much prior to the order dated January 17, 2017. In respect of some of the rooms, there are eviction proceeding pending before the appropriate Court.

6. Alleged contemnor also claimed that, he did not violate the order dated January 17, 2017. Notwithstanding the fact that, such order was obtained without serving the appeal on them and such order not being communicated till date. We invited learned advocate appearing for the petitioner to place the affidavit of his client where, the statements made in paragraph-13 of the affidavit-in-opposition with regard to the description of tenancies and occupants are dealt with. He draws our attention to paragraph-7 of the affidavit-in-reply which deals with paragraph-13 of the affidavit-in-opposition.

7. We perused the paragraph-7 of the affidavit-in-reply. It contains an averment that, the petitioner approached an authority under the Right to Information Act, 2005. The manner of occupation of the rooms as

described in paragraph-13 of the affidavit-in-opposition is not denied by the petitioner.

8. It is for the petitioner to bring forth to the notice of the Court alleged violation of an order of the Court.

9. The petitioner in the facts and circumstances of the present case failed to place any cogent material on record warranting the Court to invoke jurisdiction under the Contempt of Court Act, 1971 or under Article 215 of the Constitution of India.

10. In such circumstances, CPAN 959 of 2024 is **dismissed** without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)