

20 09.04.2024
AN Ct. No. 01
RP

CPAN 895 of 2023
in
FMA 693 of 2022

Sankar Jana
Vs.
Masud Hasan

Mr. Kaushik Sarkar
Mrs. Suman Sahani

... For the petitioner

Mr. Somnath Ganguli, Ld. AGP
Mr. Rajaram Banerjee

... For the State

1. This contempt application has been filed alleging willful disobedience of the order and direction dated 26.04.2023 in FMA 693 of 2022. In paragraph 7 of the order, it has been held as follows:

“7. Therefore, we are of the view that in so far as the said eight decimal is concerned which are covered by the earlier order of the Collector, Contai and the earlier order in the writ petition dated 06.03.2002, the respondent department cannot take action unless and until they obtain appropriate orders declaring their right over the property. However, in respect of the remaining area where there is an allegation of encroachment, it is well open to the respondent department to conduct a survey of the area to which the appellant should cooperate and upon his failure, the respondent department is entitled to seek police protection and survey be conducted and if there is any encroachment beyond eight decimal or any illegal construction has been put up by the appellant without building plan approval, action be initiated by the respondent forthwith.”

2. In paragraph 8 of the said order dated 26.04.2023, the Court observed that during the survey, the appellant/contempt petitioner shall produce all documents which are in possession of the authorities. The contention

of the respondent is that 8 decimals of land which is covered by the earlier order of the Collector, Contai and the earlier order in the writ petition dated 06.03.2022 is not interfered with and it was found during survey that additional 9 decimals of land has been encroached.

3. In the light of the same, the Court in a contempt jurisdiction cannot expand the scope of the order dated 26.04.2023 and we find no justifiable reason to entertain this contempt application.

4. Hence, the contempt application is **dismissed**.

(T. S. Sivagnanam)
(Chief Justice)

(Hiranmay Bhattacharyya, J.)