

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Joymalya Bagchi

And

The Hon'ble Justice Gaurang Kanth

***M.A.T. 1248 of 2023
(CAN 1 of 2023)***

***Aswini Malik
-Vs-
Tapan Adak&Ors.***

For the Appellant : Mr. Alope Kumar Ghosh, Adv.
Mr. Subhrangsu Panda, Adv.
Ms. Ina Bhattacharyya, Adv.
Ms. Mithu Singha Mahapatra, Adv.

For the State : Mr. Pankaj Halder, Adv.
Mr. Prashant Kumar Tripathi, Adv.

Heard on : 22.07.2024

Judgment on : 22.07.2024

Joymalya Bagchi, J. :-

1. Appellant is the Pradhan of Tulsiberia Gram Panchayat, Howrah.
2. By order dated 07.10.2021 the appellant and other Panchayat authorities were directed to deal with the representation of respondent no.1/writ petitioner with regard to unauthorised construction by inspecting the premises in question and to pass a reasoned order in the

matter. The order was duly communicated to the appellant-Pradhan but no reasoned order was passed till 2022.

3. Under such circumstances, respondent no.1/writ petitioner initiated contempt proceeding being CPAN 381 of 2022. In the contempt proceeding, the Hon'ble Single Bench by order dated 01.09.2022 directed the appellant-Pradhan to submit affidavit of compliance. No affidavit of compliance was filed and on a number of dates. On 22.06.2023 appellant/contemnor was absent and it was submitted on his behalf that he was busy in the election process.

4. To ensure compliance of its directions which were long overdue, Hon'ble Single Bench was constrained to restrain the appellant/contemnor from participating in the election process. However, instead of complying with directions, an application for recalling the said order was filed which came to be dismissed with costs which is the subject matter of challenge before us.

5. Learned Advocate for the appellant submits that the reasoned order has since been passed and placed before the Hon'ble Single Bench. Election has come to an end and therefore, costs imposed upon the appellant be waived.

6. We are unable to accede to the prayer of the appellant. The aforesaid chronology of events show scant regard on the part of the appellant to comply with the directions of the Hon'ble Single Bench. By order dated 07.10.2021 appellant-Pradhan was directed to take steps in

the matter involving unauthorised construction and pass a reasoned order. No reasoned order was passed and contempt proceeding came to be filed in 2022. During hearing of the contempt matter the appellant dragged his feet and affidavit of compliance was not filed for more than ten months. Finally, in June, 2023 a specious plea was taken that the appellant was busy in election campaigning. Finding no other alternative, in order to ensure compliance, Hon'ble Single Bench restrained him from campaigning. Hon'ble Single Bench was compelled to resort to this measure in order to ensure compliance of a court order which had remained unheeded to for almost two years.

7. Even thereafter the affidavit of compliance was not filed but the appellant took an obstructive course by seeking recall of the aforesaid order. Under such circumstances, application for recall came to be dismissed and cost of Rs.5,000/- was imposed upon the appellant.

8. In this factual matrix, appellant ought to consider himself lucky that the Hon'ble Single Bench did not hold him guilty of contempt. Belated compliance of the order gives no justification to set aside the cost imposed upon him.

9. The appeal is accordingly, dismissed.

10. In view of dismissal of the appeal, connected application being CAN 1 of 2023 is also disposed of.

11. There shall be no order as to costs.

12. Photostat certified copy of this judgment, if applied for, be given to the parties on compliance of all formalities.

I agree.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

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