

D/L
Item No. 10
14.03.2024
KOLE

**CPAN 1034 of 2021
With
IA CAN 3 of 2022
in
WPA 5596 of 2019**

**Unush Sk.
-Vs.-
Mr. Sabuj Baran Sarkar & Ors.**

*Mr. Ujjal Ray,
Mr. Arpa Chakraborty,
Mr. Sk. Abdur Rahim,*

...for the petitioner.

*Mr. Rudranil Bhattacharyya,
Mr. Anamika Pandey,*

...for the respondent nos. 1 and 2.

*Mr. Chandi Charan De,
Mr. Anirban Sarkar,*

...for the State.

This contempt application was filed alleging wilful violation of an order dated February 9, 2021, passed in WPA 5570 of 2019, filed by one Md. Enayutullah Molla, against the Director of Bengal Land and Land Reforms and Revenue Department & others. The said writ petition was heard with seven other writ petitions, being WPA 5590 of 2019, WPA 5593 of 2019, WPA 5596 of 2019, WPA 5598 of 2019, WPA 5604 of 2019, WPA 5606 of 2019 and WPA 5608 of 2019.

The contention of Md. Enayutullah Molla, who was the petitioner in all the writ petitions, was that he is in possession of land which is classified as enemy property, on the strength of license granted in his favour by the Central Government against payment of prescribed license fee. He contended that although initially the relevant records

reflected that the area of the land in question was approximately 77 acres, with the passage of time, the area reflected in the records is shown to be diminishing. He alleged that third parties who are not entitled to be in occupation of the land in question are encroaching upon the land and illegally occupying portions of the land. His representations to the concerned authorities including the concerned District Magistrate who is the custodian of the property received no response.

Upon hearing the petitioner as well as learned Counsel for the State and Union of India, this court had directed the District Magistrate, Murshidabad as well as the Assistant Custodian of Enemy Property of India to file independent reports in the form of affidavits dealing with the allegations in the writ petitions. An order was passed directing maintenance of status quo as regards the possession of the property in question.

Alleging wilful violation of such status quo order the present contempt application has been filed.

It appears that the private respondent nos. 11 to 14 impleaded as alleged contemnors, were dead as on the date of filing of the contempt application. Let their names be struck off from the array of respondents.

Even otherwise, I find that the respondent no. 2 being the Assistant Custodian of Enemy Property, Government of India, has filed a supplementary affidavit, enclosing thereto an order under Section 144 of the Code of Criminal Procedure, 1973 passed by the Sub-divisional Magistrate,

Berhampore Sadar, Murshidabad. That order has been passed for protection of the property in question which admittedly belongs to the custodian of enemy property.

I have also gone through an affidavit affirmed on February 17, 2022, by the District Magistrate & Collector, Murshidabad, described as 'affidavit of compliance'. Having perused that affidavit, I find that necessary remedial measures have been taken by the concerned department of the State Government including rectification of record of rights in respect of the concerned land.

The writ petitions are pending. I do not find any wilful violation of my order dated February 9, 2021. I am of the view that the writ petitioners should take steps for disposal of the writ petitions which are pending. I see no reason to keep this contempt petition pending.

CPAN No. 1032 of 2021 is accordingly disposed of.

Pending applications, if any, which have become infructuous in view of the disposal of the contempt application, are also disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Arijit Banerjee, J.)