

21.05.2024
Item No.18
RP
Ct. No.1

CPAN 1348 of 2023
+
IA No.CAN 1 of 2023
(not found in file)
in
WPA(P) 182 of 2023
Kantilal Ganguly & Ors.
Vs.
Sri Vijay Sagar Mishra

Mr. Tanmay Chowdhury

Ms. Ritoprita Ghosh

.....for Applicants

Mr. Rajendra Chaturvedi

.....for alleged contemner

Mr. Dipankar Aditya

Ms. Tina Biswas

.....for Intervenor

1. This contempt application is filed alleging willful disobedience of the order dated 24th April, 2023.
2. We have heard the learned advocates for the parties. The operative portion of the impugned order reads as follows.

“6. In the light of the observation made by the Executive Officer, Rishra Municipality dated 20th September, 2022 it goes without saying that even if the pond is not in existence as on date, if it has been registered as water body in the revenue records and the conversion is unauthorized and illegal, it is for the Commissioner of the Municipality to take action in accordance with law so that the pond is restored.

7. Accordingly, the writ petition stands disposed of by directing the Chairman of the Municipality to issue notices to the writ

petitioners as well as the private respondents to conduct an inspection of the area and if it is found that water body/pond has been illegally converted, steps should be taken to restore the same to its original position. The Chairman before taking action shall issue notices to the petitioners as well as the private respondents give them an opportunity to make their submissions and place records in their possession and thereafter decide the matter in accordance with law.”

3. The learned advocate appearing for the respondent municipality submitted that the Chairman is not the appropriate authority to comply with the direction but it is the Executive Officer of the municipality.
4. In any event, it is admitted by the learned advocate for the applicants that notices have already been issued to the applicants as well as the private respondents and they were heard in the matter, However, it appears that the final order could not be passed on account of direction being issued to the Chairman instead of the Executive Officer of the municipality.
5. Learned advocate who sought to appear on behalf of the intervenor submitted that his client was inducted as a tenant by one of the trustees and there is no genuineness in the public interest litigation and it is a sort of internal dispute amongst the trustees. In any event, the issue as to whether any encroachment is there or not has to be considered by the municipality irrespective of the fact that whether the complaint has been

lodged for certain other reasons or on account of the internal dispute amongst the trustees. The Executive Officer of the Municipality is directed to issue notice to all the occupants of the property in question including the intervenor, who is stated to have filed an application before the municipality and after hearing all the parties the directions issued by this Court in the said order be complied with within a period of two months from the date of receive of the server copy of this order.

6. With the aforesaid direction, this contempt application and the connected application are disposed of.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)