

Ml- 01.03.2024
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WPCRC 525 of 2014
In
W.P.A. 24678 of 2014
(IA NO: CAN 1/2015 (Old No: CAN 4219/2015) & CAN 2/2015 (Old
No: CAN 5515/2015)

The Court in its own motion
-vs-
Executive Engineer Republic Works (Roads)

Mr. Kamal Mishra,
Mr. Pratap Sanfui

....for the petitioner.

The contempt proceeding is considered today in presence of the learned advocate representing the writ petitioner. It has been submitted by the learned advocate representing the writ petitioner that a *suo motu* rule of contempt was issued by a coordinate Bench on 18th November, 2014 for violation of the order dated 22nd September, 2014 passed on the connected writ petition.

During course of hearing Mr. Mishra, learned advocate representing the writ petitioner submits the order of the Hon'ble Division Bench dated 12th May, 2015 passed on an intra Court appeal being AST 104 of 2015 wherein in second page order dated 22nd September, 2015 is quoted. This Court is to rely upon the relevant part of the order dated 12th May, 2015 since the writ petition

is running in the list before a coordinate Bench. From the relevant part of the order of the Hon'ble Division Bench dated 12th May, 2015 wherein the order dated 22nd September, 2014 passed by the learned single Judge is quoted it appears that the Executive Engineer, Public Works (Roads) Department, Diamond Harbour Highway Division, South 24 Parganas was directed to instruct properly and to submit a report as to whether Government land was encroached by anybody and a report was directed to be submitted before the learned single Judge on the next date.

On perusal of the order dated 18th November, 2014 it appears that the coordinate Bench since found that the order dated 22nd September, 2014 was not complied with issued *suo motu* rule of contempt against the Executive Engineer, Public Works (Roads) Department, Diamond Harbour Highway Division, South 24 Parganas. Subsequently, in the contempt proceeding an order was passed by the coordinate Bench on 9th March, 2015 whereby directing the concerned Superintendent of Police to remain present with sufficient police force for removing encroachers from the land in question and the entire exercise was directed to be completed within

a specified time.

Against the said order dated 9th March, 2015 an intra Court appeal being AST 104 of 2015 was preferred and the same was disposed of vide order dated 12th May, 2015 by the Hon'ble Division Bench. The order dated 12th May, 2015 passed by the Hon'ble Division Bench is placed before this Court and the same is taken on record.

On perusal of the order of the Hon'ble Division Bench dated 12th May, 2015 it appears that the order dated 9th March, 2015 passed by the learned single Judge giving direction for removing the encroachers from the land in question with the help of police force, was set aside.

In view of the order passed by the Hon'ble Division Bench on 12th May, 2015 setting aside the order dated 9th March, 2015 passed by the coordinate Bench in present contempt proceeding it has been submitted by the learned advocate representing the writ petitioner that the contempt proceeding has become infructuous which was initiated pursuant to the order of the coordinate Bench dated 18th November, 2014.

It is also submitted by the learned advocate representing the writ petitioner that the writ petition is till pending and the same is running in

the list of a coordinate Bench for final adjudication.

In view of such submission being made on behalf of the writ petitioner and taking note of the order passed by the Hon'ble Division Bench dated 12th May, 2015 whereby the order of the coordinate Bench dated 9th March, 2015 was set aside, it appears that the contempt proceeding has become infructuous.

Accordingly, the contempt proceeding stands dropped and the contempt rule is discharged.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)