

Item No.2
12.06.2024
Court. No. 2
GB

*CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE JURISDICTION*

CPAN 76 of 2023
In
WPA 2893 of 2022

Gouri Shankar Deb Raikat
VS
Amlan Jyoti Saha & Ors.

*Mr. Narendra Nath Das,
Mr. Pragyaadip Roy Basunia,
Mr. Gobinda Chandra Roy*

...for the Petitioner.

*Mr. Joyjit Choudhury,
Mr. Hirak Barman*

...for the alleged Contemnor No.2 to 4.

Mr. Debrup Bhattacharjee

...for the alleged Contemnor No.1.

*Mr. S. Ghosh,
Mr. A. Biswas,
Ms. K. Mishra*

...for the Intervener.

1. The learned Additional Advocate General is requested to appear in this matter on behalf of the alleged contemnors who are officials of the State respondents.
2. The contempt application has been filed by a person who claims to be the son of Raja Prasanna Deb Raikat, a family member of the Jalpaiguri Rajbari. The applicant preferred a writ petition being WPA 2893 of 2022 for implementation of the notification of the West Bengal Heritage

Commission by which the Jalpaiguri Rajbari was sought to be declared as a heritage property.

3. The persons occupying the property and also claiming interest in the same, intervened in the proceeding and submitted that the notification was vague and the declaration of the Rajbari along with ponds, temples, etc., had not been made in compliance of Section 15 of the West Bengal Heritage Commission Act. The writ petitioner/applicant herein also made allegations of encroachment, unauthorized sale of the properties, etc.
4. The writ petition was confined to the issue of preservation of the property which the commission proposed to declare as the heritage property. A Public Interest Litigation had been moved earlier before the Hon'ble Division Bench when an order was passed on November 7, 2013, inter alia, stating that since the heritage commission declared the property as a heritage property, it was their solemn duty to maintain the same. The writ petitioner/applicant wanted implementation of such order and specific action on the part of the commission to ensure preservation of the Jalpaiguri Rajbari as heritage property as per the direction of the Hon'ble Division Bench.

5. This Court had recorded in the said writ petition that once the Division Bench had directed preservation of the Rajbari as a heritage property, further enquiry with regard to the decision could not be made. The writ petition was filed for preservation, maintenance, conservation of the property and this Court was of the view that the occupants could not direct reopening of the issue.
6. However, the District Magistrate, Jalpaiguri, the Superintendent of Police and the heritage commission were directed to make a demarcation in presence of all stakeholders including the present occupants to demarcate the portion, which according to the heritage commission, was proposed to be heritage property.
7. The District Magistrate held a meeting and prepared minutes on January 10, 2023 in the presence of all the stakeholders. It was found that the intervener in the writ petition had filed another writ petition challenging the procedure by which the notification was issued by the heritage commission. Hence, the matter was adjourned, being sub judice. No demarcation was made.
8. Although, it is the contention of the present occupant, the son of Prativa Debi that Prativa Debi was the only legal heir of Raja Prasanna Deb Raikat, this issue is not to be decided in this

proceeding. All that can be decided in the contempt application is whether there has been blatant violation or illegality on the part of the authority in not complying with the order of this Court. It appears that attempts were made to inspect and demarcate, but the matter did not move forward and in the meantime the notification was challenged by the occupant and direction for affidavits were filed. The heritage commission was asked to explain what exactly they had meant by heritage property.

9. It is submitted by the commission that an affidavit has been filed in WPA 3337 of 2022. The commission indicated that the palace gate and the Rajbari were the only heritage property which they intended to declare by the notification. The writ petition is pending. The Court had framed the points which were required to be decided and answered by the respective parties, especially the heritage commission. They are as follows:-

A) The procedure followed by the Commission while declaring the said Jalpaiguri Rajbari as Heritage Property.

B) The meaning of the purported letter dated January 28, 2017 issued by the Secretary, West Bengal Heritage Commission.

C) What exactly was meant by the expression “Jalpaiguri Rajbari” with regard to such declaration by the Commission.

D) Whether the land and other places adjoining the said Jalpaiguri Rajbari was included as a part of the heritage property.

E) The purport and meaning of the second paragraph of the letter dated January 28, 2017 written by the Secretary of the West Bengal Heritage Commission to the District Magistrate, Jalpaiguri.

F) Whether attempts were made to notify the decision after consideration of the objection of the occupant.

10. Such order was passed with a specific observation that the property should be preserved as a heritage property. In my opinion, I do not find any contempt had been committed as there is no intentional and blatant violation of the order passed by this Court earlier in WPA 2893 of 2022. However, it goes without saying that as the heritage commission has decided to declare at least the building/dwelling house and gate as heritage property, the same shall be treated as heritage property and preserved by all the parties till WPA 2893 of 2022 is heard and disposed of finally. All the issues raised by the applicant including the

issue as to whether the matter could be reopened after the direction of the Hon'ble Division Bench in the PIL, shall also be decided in WPA 3337 of 2022. The commission and the State respondents shall ensure preservation of the palace gate of the premises as also the structure and the building in the premises, which were constructed by Raja Prasanna Deb Raikat. They will keep a vigil.

11. Accordingly, the contempt application is disposed of. The contempt proceedings are dropped.
12. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)