

17.06.2025
Court No.13
Item No. 17
sp

FMA 627 of 2025
With
CAN 1 of 2025
Sri Biplab Ghora & Anr.
Vs.
Sri Sahadeb Maity & Ors.

Mr. Saptangsu Basu, ld. Sr. Adv.
Mr. Prasanta Kumar Banerjee,
Ms. Krishna Yadav.

..for the appellants.

Mr. Pawan Kumar Gupta,
Mr. Vijay Verma,
Ms. Sofia Nesar,
Mr. Santanu Sett,
Mr. Sankha Subhra Chakraborty.

..for the respondent nos. 1 and 2.

Mr. S. Maiti,
Mr. Aditya Sinha.

..for the respondent no.8.

1. The instant appeal is directed against the order dated 6th February, 2025, being an interim order passed in WPCRC 85 of 2024. In essence the order was passed in a contempt application. Contempt was alleged by the petitioner therein of the Single Bench's order dated 27th June, 2022.

2. By the said order passed in a writ petition which challenged an illegal construction over a public pathway the Single Bench directed the Pradhan of the Rajhati-II Gram Panchayat to consider as to whether the construction was made on a public pathway by looking

into the records available with the Gram Panchayat. The alleged contemnor/respondent no. 1, the then Pradhan of the concerned Gram Panchayat held that the land on which construction was being made was not a public pathway.

3. The writ petitioner thereafter filed WPCRC 85 of 2024 alleging that the original Pradhan and the successor-in-interest, did not bona fide make a consideration as directed by the Court in order dated 27th June, 2022. He insisted that the pathway was a public pathway.

4. Admittedly, the consideration by the then Pradhan was not made when the contempt application was filed. It was made after a formal rule was issued in the contempt application. After scrutinizing the order passed by the Pradhan, the impugned order dated 6th February, 2025 was passed, as an interim measure in the contempt application directing ascertainment as to whether the land in question was part of a public pathway or not. The L.R. record of rights where the construction was made was considered by the Court. The Court went on to seek the assistance of the local Block Land and Land Reforms Officer, Khanakul Block who was respondent no. 5 in the original writ petition was directed to cause a spot inspection of the subject land upon notice to all the parties.

5. Mr. Basu, learned Senior Counsel appearing for the appellants original private respondent in the writ petition would argue that the Court while exercising jurisdiction of contempt after noting the decision of the Pradhan, in compliance of its original order passed in the writ petition could not enter into a further roving enquiry as to whether the Pradhan's decision was correct or not. He submits that the correctness of the decision of the Pradhan is an independent cause of action, which could have been the subject matter of a new writ petition.

6. In support of his contention Mr. Basu has relied upon several decisions of the Supreme Court. The first case of ***J.S. Parihar Vs. Ganpat Duggar and others*** reported in ***(1996) 6 SCC 291***, particularly, paragraph 6 thereof. In the said case, the Court concerned, went on to examine the propriety of, and rectify a seniority list published pursuant to directions of Court, in a contempt proceeding. In the said case, the contempt application was disposed of by reason of such correction.

7. The next decision relied upon is the case of ***Lalit Mathur Vs. L. Maheswara Rao*** reported in ***(2000) 10 SCC 285***. While disposing of the contempt application, and after scrutinizing a decision on a representation for absorption, directed to be considered in the writ petition, the High Court went on to direct the respondents in contempt proceedings to issue a letter of appointment to

the applicant therein. Admittedly, the service of the applicant was terminated on account of winding up of the original government company.

8. The next decision cited by Mr. Basu is the case of ***Sudhir Vasudeva, Chairman and Managing Director, Oil and Natural Gas Corporation Limited and others Vs. M. George Ravishekaran and others*** reported in ***(2014) 3 SCC 373***, particularly paragraphs 19 and 20 thereof. In the said decision at paragraph no. 19 it was held by the Supreme Court by holding that the Court must not travel beyond four corners of the original order in contempt jurisdiction. It was however clarified that any such directions which are explicit in a judgment or order or are plainly self-evident ought to be taken into account for the purpose of consideration as to whether there has been any wilful disobedience or wilful violation of the Court's order.

9. Mr. Basu lastly placed reliance upon the decision of the Supreme Court in the case of ***Midnapore Peoples' Cooperative Bank Ltd. Vs. Chunilal*** reported in ***(2006) 5 SCC 399***, particularly paragraph no. 11 thereof where the power of the Court under the contempt of Courts Act and the scope of examination was addressed. Even in the said decision at Sub-Clause (4) of paragraph 11, it was clarified by the Supreme Court matters incidental to or inextricably connected with the order, violation whereof

is alleged by the applicant, can be considered even in the contempt proceeding.

10. Learned counsel for the respondent no. 4, alleged contemnor and current incumbent in the post of Pradhan has relied upon a decision of the Supreme Court in the case of ***U.N. Bora, Ex. Chief Executive Officer & Ors. Vs. Assam Roller Flour Mills Association & Anr.*** reported in ***(2020) 1 SCC 101***.

11. This Court notes that the said decision is an authority for the degree of proof required for punishment under the Contempt of Courts Act. The said decision cannot come to the aid of the alleged contemnor.

12. Having regard to the aforesaid, this Court is of the view that the impugned order dated 6th February, 2025 is inextricably connected with the main contention of the writ petitioner that the private respondent herein before this Court was effecting construction over a public pathway. The Pradhan who was originally reluctant to comply with the Court's order to ascertain whether the construction was effected on public land or not, passed an order after the contempt application was filed holding that the construction was not on public land. The Single Bench in its wisdom realizing the lackadaisical attitude of the respondent and alleged contemnor was, therefore, wholly justified in passing the impugned order dated 6th

February, 2025 where the opinion of the BL & LRO was sought to ascertain the nature and character of the land on which the construction was being effected by the appellant/private respondent. The matter is still pending consideration. The Court did not wish to believe the findings of the Pradhan. By the impugned order nor was the Pradhan was not found guilty the contempt application disposed of imposing any penalty.

13. In the peculiar facts and circumstances of the case, this Court is of the view that the order dated 6th February, 2025 and the enquiry by the Single Bench into the propriety of the finding of the Pradhan, i.e., as to whether the construction was being effected by the appellant was a public land or not, cannot be called a roving enquiry. It is only the BL & LRO who is the custodian of the relevant land record under the West Bengal Land Reforms Act, 1955. Such land records would indicate the actual nature and character of the land on which construction is being made by the appellant.

14. In times where public land is rampantly occupied and permanent construction raised either without the consent of the concerned Gram Panchayat or Municipality or with the active connivance of the latter, the impugned order dated 6th February, 2025 cannot, therefore, be faulted.

15. The Single Bench may proceed with the contempt application and receive reports from the BI & LRO but must note with caution the observations of the Supreme Court in the cases referred to hereinabove.

16. With the aforesaid directions, FMA 627 of 2025 shall stand dismissed.

17. Consequently, CAN 1 of 2025 shall stand dismissed.

18. There shall be no order as to costs.

19. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)