

Item No.4
23.09.2025
Court. No. 16
GB

CPAN 1609 of 2025
In
CO 115 of 2023
With
CAN 1 of 2023
With
CAN 2 of 2023
With
CAN 3 of 2024

Rayees Alam, since deceased
Substituted by his daughter
Ismat Ara
VS
Mr. Dilip Chowdhury & Ors.

*Mr. Rauf Rahim,
Mr. Iftekar Munshi*

...for the Applicant.

*Mr. Arindam Banerjee,
Mr. Sankarsan Sarkar,
Mr. Mehboob Rahman*

...for the Alleged Contemnors.

This is an application for contempt of the order dated October 5, 2023 passed in CO 115 of 2023. The revisional application arose out of an order dated May 5, 2022, passed by the Waqf Tribunal in Suit No.13 of 2020. The suit was filed by the erstwhile alleged Mutawalli of Zohra Begum Waqf Estate. The suit was dismissed. During the pendency of the suit, the mutawalli expired and his daughter Ismat Ara was substituted in place of Rayees Alam as the heirs of Rayees Alam.

The board filed a civil revisional application challenging the judgment and substitution of Ismat Ara. The substituted heir of Rayees Alam filed CO 115 of 2023 challenging the judgment of the tribunal. M/s. Ganges

Gardes Realtors Private Limited and others filed a revisional application being CO 2623 of 2022. They were the defendants in the suit. They challenged a part of the judgment which related to a finding that the subject land had not been vested.

The petitioner in CO 115 of 2023 submitted that after the dismissal of the suit, the developers were continuing with the construction and necessary orders were required to be passed to stay the construction.

This Court was of the view that steps which had been taken would be subject to the decision of the court in the revisional applications. Moreover, if any third party interest had already been created or would be created, such transfer shall be hit by the doctrine of lis pendens.

It is submitted by Mr. Rahim, learned senior advocate and Mr. Munshi, learned advocate who support the contempt application that during the pendency of the revisional applications, the construction is continuing and the developers have proclaimed to the whole world that, the property was free from all encumbrances, although the revisional applications were pending.

Further submission is that although the property was found to be a Waqf property by the board, the property was being developed as a private property.

Mr. Banerjee and Mr. Sarkar, learned advocates oppose this contempt application and submit that this Court had not passed any injunction over the property. The Court had actually observed that, steps that may be taken and all

actions of the developers would be subject to the final decision in the revisional applications and the transfers which would take place in the meantime, would be governed by the doctrine of lis pendens.

I have perused the order passed. It is true that no injunction was passed upon the alleged contemnors. The Court had observed that it was not necessary to pass an injunction as steps that may be taken by the developers/alleged contemnors would be subject to the decision of the revisional applications and the transfer which may have taken place or would take place, would be hit by the doctrine of lis pendens. This Court was of the, prima facie, view that further order of injunction was not necessary.

Under such circumstances, even if the developers are continuing with the construction and selling the properties, the order operates, inasmuch as, all those transfers are subject to the final decision of the revisional applications and would be hit by the doctrine of lis pendens as per law, or until further orders of the revisional court. The applicants can seek reliefs before the revisional court.

Under such circumstances, this Court does not find any contemptuous act on the part of the alleged contemnors. Contempt is a quasi criminal jurisdiction, where the Court has to be satisfied that the order was violated by the alleged contemnors and to come to such satisfaction, the violation has to be proved beyond reasonable doubt.

Under such circumstances, the contempt application is disposed of without passing the orders as prayed for. Contempt proceedings are dropped.

Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)