

20.06.2025

Court No.1

Item No.03

(PP)

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

**MAT 40 of 2025
With
IA No: CAN 1 of 2025**

**Swapan Saha
versus
Swapan Bhowmik & Ors.**

Mr. Amritm Mondal,
Mr. Debasish Mukherjee,
Ms. Madhusri Dutta,
Mr. Subrata Sarkar

....for the appellant.

Mr. Subir Kumar Saha, AGP,
Mr. Suhit Kumar

....for the State.

Mr. Pretom Das,
Mr. Abhishek Sen

...for Malbazar Municipality.

This is an appeal arising out of an order dated 3rd April, 2025 passed in a contempt proceedings being WPCRC 3 of 2025. The contempt arose in connection with the violation of the order dated 29th January, 2024 passed in WPA 116 of 2024 by which the writ petition filed by Swapan Bhowmik, the petitioner herein was disposed of inter alia directing Malbazar Municipality to clear the due amount of the writ petitioner (Swapan Bhowmik) aggregating to Rs.25,06,962/- positively by 31st May, 2024.

This order was challenged by Malbazar Municipality by filing an appeal being MAT 42 of 2024. The said appeal along with the connected applications was disposed of by an order dated 30th July, 2024 upholding the order of payment directed by the learned Single Judge. However, the time to make payment of the amount so directed by the learned Single Judge was extended for a period 2 months from the said date.

Malbazar Municipality failed to pay the money as directed even within the time period extended by the Division Bench vide order dated 30th July, 2024, as a consequence whereof the writ petitioner filed this contempt application, being CPAN 41 of 2024. During the pendency of the said contempt application, Malbazar Municipality has paid only a sum of Rs.8,00,000/- and sought for further time to comply with the order. The prayer was considered and the contempt application was adjourned till 6th March, 2025 to enable the contemnors to pay the outstanding amount. On 6th March, 2025, no one appeared, as a consequence whereof the learned Single Judge issued a contempt rule which was made returnable on 3rd April, 2025. The contempt application being CPAN 41 of 2024 on the rule being issued was numbered as WPCRC 03 of 2025.

It is the case of the appellant that as recorded in the order dated 3rd April, 2025 that the appellant was removed from the office of the Chairman of the

Municipality on 31st January, 2025 and a new Chairman has been appointed on 7th February, 2025. The appellant also submits that his powers as Chairman got curtailed in September, 2024 when he was censored by the political party to which he belongs. This cannot be a valid ground to resist the contempt as the appellant continued to remain as the Chairman of the concerned Municipality till 31.11.2025. The plea of the appellant that he did not get an opportunity to comply with the order is as such not well-founded.

Learned Single Judge in the order dated 3rd April, 2025 had categorically recorded that despite being given sufficient opportunity the order of the Court was yet to be complied with. Only partial payment has been made by the Municipality and the balance payment is pending for considerable period of time. Learned Judge, therefor, directed the appellant, being the erstwhile Chairman of Malbazar Municipality, to file an affidavit of assets disclosing his assets before the Court and as the same has permitted the municipality to pay the outstanding and to the petitioner.

We do not find any infirmity in the said order as the learned Single Judge had given sufficient opportunity to Malbazar Municipality and its Chairman to comply with the order dated 29th January, 2024 which was confirmed by the Appellate Court.

The appellant says that since he was removed from the office of the Chairmanship, he did not get sufficient opportunity to comply with the order for the reasons aforesaid does not inspire our confidence. That apart, this contention is also not well-founded as he has been removed only on 31st January, 2025 while the order directing payment is dated 29th January, 2024, and as such, there was a gap of more than one year.

The contempt proceedings by its nature is between the Court and the alleged contemnors upon the act of contempt being brought to the notice of the Court.

The learned Single Judge, therefor, was well within her jurisdiction to issue rule and when the answer to the rule was unsatisfactory, directed the appellant, being the erstwhile Chairman of Malbazar Municipality to file an affidavit of assets disclosing his assets before the Court.

It is well-settled provision of law that the dignity and majesty of the Court is required to be preserved and protected. If a litigant fails to comply with the order, the High Court is empowered to deal with the contemnors in exercise of its jurisdiction under Article 215 of the Constitution of India read with the provisions of the Contempt of Courts Act, 1971.

It is apparent from the facts as stated hereinabove, that the order dated 29th January, 2024 as

upheld by the order of the Division Bench dated 30th July, 2024 was not complied with till 3rd April, 2025.

It is submitted by the appellant, which is not disputed by the writ petitioner, and the petitioner in the contempt application says that the entire dues as directed to be paid by the order dated 29th January, 2024 read with the order dated 30th July, 2024 has been made only on 18th June, 2025.

The co-terminus in respect of a contempt proceeding is the date on which the violation has taken place. The violation of the order dated 29th January, 2024 had taken place on expiry of 31st May, 2024 and again on expiry of 2 months period from 30th July, 2024. Subsequent compliance of an order, however, does not absolve the act of contempt.

We, therefor, are not inclined to interfere with order dated 3rd April, 2025. The appeal, therefor, stands dismissed along with the connected application.

The dismissal of the appeal shall, however, not stand in the way of the appellant in praying for dispensation of filing of the affidavit of assets before the learned Single Judge in the contempt proceeding.

(Arindam Mukherjee, J.)

(Partha Sarathi Chatterjee, J.)