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IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APOT/153/2025

WITH

CC/98/2024

WPO/1582/2023

IA NO: GA/1/2025

PRAVEEN ALAM

...Intervener/Applicant/Appellant

VS

MD NAWAB

...Respondent/Writ Petitioner

THE STATE OF WEST BENGAL & ORS.

... Respondents

SHRI DHAVAL KUMAR JAIN

...Contemnor/Respondent

BEFORE :

HON'BLE JUSTICE TAPABRATA CHAKRABORTY

-A N D-

HON'BLE JUSTICE REETO BROTO KUMAR MITRA

DATE : MAY 23, 2025

Appearance :

Mr. Abdul Hadi, Adv.

Mr. A.K. Lala, Adv.

Mr. Syed Nasir Hasan, Adv.

...for appellant

Mr. Biswajit Mukherjee, Adv.

Ms. Piyali Sengupta, Adv.

...for respondents

The Court:- The appeal is from an order dated 6th May, 2025, passed by a learned Single Judge in a contempt petition, to which the petitioner herein is not a party.

The petitioner has also preferred an application seeking leave to appeal. In view of the pleadings made in the application we allow the application for leave to appeal.

With the consent of the parties we take up the appeal and the application together, for final hearing.

The order impugned of May 6, 2025 was made in a contempt petition, seeking enforcement of an order passed by the learned Single Judge on October 3, 2023 directing demolition of premises No. 14/H/1, Chamru Singh Lane, Post Office – Narkeldanga, Ward No. 29, Borough III, Kolkata 700 011 (hereinafter referred to as the said premises).

The specific finding of the learned Judge in the order dated 3rd October, 2023 was that the five storied building situated at the said premises was an illegal and unauthorised construction and was thus, required to be demolished.

The said order was carried in appeal by the respondent no. 5, the brother of the applicant herein, claiming to be 3/4th owner of the premises. The applicant is the owner of the balance 1/4th.

A Co-ordinate Bench of this Court, by its order dated January 16, 2024, dismissed the appeal holding inter-alia, that the appellant, the brother of the applicant herein had taken a dishonest stand and was imposed with cost of Rs.20,000/-.

The order of 3rd October, 2023 cannot be assailed at this juncture. What the applicant seeks to challenge, is the order of May 6, 2025, which was passed in the contempt proceeding, seeking enforcement of the order of October 3, 2023.

We have heard Counsel for both parties and considered the documents on record.

It is clear from the records that there is only one building at premises No. 14/H/1, which is also not disputed by the applicant though a feeble assertion is made that the applicant is an owner of a portion of such building. However, such portion is not ascertained.

In view of the order of October 3, 2023, which has attained finality, we find that the applicant cannot revive a challenge to such order, by challenging its enforcement by the impugned order.

Despite our repeated queries, the petitioner was unable to show that she had taken any steps in challenging the order of October 3, 2023 till May 2025.

The assertion of the applicant that she was not aware of the order dated 3rd October, 2023, not being a party to the said writ petition, is unacceptable to us, as her brother, Parvez Alam was a party to such proceeding and had indeed carried the order of 3rd October, 2023 in appeal.

We are not inclined to interfere with the order of 6th May, 2025.

In the aforestated factual matrix, the appeal and the application are dismissed.

There shall, however, be no order as to costs.

(TAPABRATA CHAKRABORTY, J.)

(REETOBROTO KUMAR MITRA, J.)