

Form J(2)
Sl.No.4
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In the High Court at Calcutta
Special Civil Jurisdiction
Appellate Side
Contempt

Present:

The Hon'ble Justice Aniruddha Roy

In the matter of :

CPAN 383 OF 2025

arising out of

WPA 25970 OF 2024

Subhas Institute & Anr.

.... Petitioners

VS.

**Sri Sunil Mukherjee,
Chairman, Barasat Municipality**

.... alleged Contemnor

For the petitioners : Mr. Anirban Mitra, Adv.
Mr. Santanu Chatterjee, Adv.
Mr. Sudepto Kumar Basu, Adv.

For the Alleged Contemnor:

Mr. Biplab Roy, Adv.
Ms. Rashmi Roy, Adv.
Mr. Nilanjan Adhikari, Adv.

Heard on : June 11, 2026

Judgment on : June 11, 2026

[In Court]

Aniruddha Roy, J. :

1. Affidavit of service filed in Court today, is taken on record.

2. This is a contempt proceeding arising from an order dated ***December 16, 2024, Annexure-P3 at page 41*** to the contempt application.

Facts :

3. The inescapable facts are only stated.
4. Subject-matter of the writ petition was a complaint for demolition which was under process, of an iron gate allegedly on the land of the petitioners by the local municipal authority.
5. Upon finding a *prima facie* case in the facts of the writ petition an order of *status quo* was passed to the effect that, there shall be an order of *status quo* with regard to the nature, character and possession of ***L.R. Plot No.2267***.
6. It was also clarified that, the municipal authority was free to take steps in accordance with law in respect of ***L.R. Plot No.2249*** and there shall be no embargo on it.
7. The petitioners claim right only in respect of ***L.R. Plot No.2267*** measuring about ***1.91 acres***, as claimed by the petitioner.
8. In this contempt proceeding the petitioners have alleged that, despite there was an order of *status quo*, the iron gate and/or a part of the construction on the land of the petitioners bearing ***L.R. Plot No.2267*** was removed and a part of the same plot was encroached, hence contempt.

9. Pursuant to the direction made by this Court a joint inspection was held by the jurisdictional BL&LRO in presence of the petitioners/its representative. The joint inspection report dated **February 17, 2026** has been filed and is on record. The joint inspection report, *inter alia*, reveals that, the said **L.R. Plot No.2267** measuring about **1.91 acres** currently recorded in **L.R. Khatian No.4008** stands in the name of the petitioner and classified as '**Danga**'. However, the report also reveals that, the total area of the **L.R. Plot No.2267** is around **1.88 acres**.
10. In the light of the above, the said joint inspection report contains, *inter alia*, the following findings :

- "a) So, there is a discrepancy between the actual surveyed area of the subject plot of land reflected in the finally published mouza map and the existing RoR.*
- b) It is an admitted principle of survey that, in case of such discrepancies, the area reflected in the mouza map is to prevail over the RoR as being sacrosanct.*
- c) As per physical measurement, the area of the parcel of land possessed by the petitioners came out to be around 1.865 acres.*
- d) So, during physical measurement, a nominal discrepancy of 0.015 acres has been identified which is negligible in case of mouza maps framed in the scale of 16" = 1 mile (RF 1:3960).*
- e) However, it may well be the case that such nominal discrepancy of 0.015 acres may possibly have overlapped with the adjacent plot 2249 in the east and 2268 in the south.*
- f) Apparently, during physical inspection, no encroachment by any authority or anybody-else with regard to the portion of the land possessed by the petitioners was found."*

11. **Clause 9** of the report contains diverse *explanations* in the light of the said nominal discrepancies in the area of land.
12. Petitioners have used an exception to the said joint inspection report by way of an affidavit and the same is on record. The petitioners have stated in its exception that, a portion for about 2 feet of land has been encroached.

Submission :

13. Mr. Anirban Mitra, learned Advocate appearing for the petitioners submits that, the joint inspection report clearly reveals the encroachment of land of the petitioners from **L.R. Plot No.2267**. In this regard he has specifically referred to the clauses under the probable explanations being **Clause No.9** of the report. He submits that, despite there being an order of *status quo* in respect of **L.R. Plot No.2267**, the encroachment has happened subsequently, which is a gross contempt on the part of the alleged contemnor.
14. Ms. Rashmi Roy, learned Advocate with Mr. Nilanjan Adhikari, learned Advocate appearing for the alleged contemnor submits that, after the order of *status quo* was passed on **December 16, 2024** the alleged contemnor has not taken any step whatsoever in respect of **L.R. Plot No.2267** and the allegations of encroachment is untrue, bald, frivolous and baseless. There is no act of contempt.

15. Learned Advocate for the alleged contemnor further submits that, the probable explanations shown in the said joint survey report cannot be taken as a plea for contempt. Contempt whether has happened or not would depend on the actions taken by the alleged contemnor on facts. Accordingly, learned Advocate appearing for the alleged contemnor prays for dismissal of the contempt proceeding.

Decision :

16. After considering the rival contentions of the parties and on perusal of the materials on record, it appears to this Court that, the joint inspection report was drawn up after the inspection was carried out in presence of the parties. The fact finding inquiry held during the joint inspection reveals that, there may be a discrepancy with regard to the quantum of land being ***L.R. Plot No.2267*** as the petitioners claim ***1.91 acres*** and in the physical inspection it appeared to be ***1.88 acres***. The joint inspection report further reveals that, with regard to the measurement of ***0.015 acres*** there may be a discrepancy including a overlapping of plot by plot no.2249.
17. Firstly, the explanations cannot be accepted as factual evidence in law. The explanations are the result of opinion, at the highest, in view of the existing facts, if any. Unless factually any violation

of the direction of this Court is unimpeachably established, there cannot be any contempt.

18. Secondly, even if the explanations are taken into account for the purpose of reading then sub-clause (d) to **Clause 9** of the report would reveal that, **0.015 acres** nominal discrepancy of **L.R. Plot No.2267** has overlapped into **L.R. Plot No.2249**. Therefore, even if there is any overlapping, it is on **L.R. Plot No.2249** and not on the petitioners' **L.R. Plot No.2267**. Therefore, *prima facie*, there is no encroachment on **L.R. Plot No.2267**. However, it is made clear that, this Court has not expressed any opinion on it.
19. The law is trite that, while exercising a contempt jurisdiction, the obligation of the Court is to look at whether there is any willful and deliberate violation of the direction of the order passed by the Court. Such violation should be on facts and should be demonstrated unimpeachably. If there is any semblance of doubt or any triable factual dispute, then the Court should not take cognizance of an alleged act of contempt in its contempt jurisdiction.
20. In view of the foregoing reasons and discussions this Court finds that, there has been no contempt committed by the alleged contemnor.
21. However, if the petitioners are aggrieved with any alleged discrepancy with regard to the measurement or situation or

condition or status of its land, the petitioners shall be at liberty to approach the jurisdictional civil court in accordance with law, if so advised but this order shall not create any right or equity in favour of the petitioners before the Civil Court.

22. It is once again clarified that, this Court has not expressed any opinion on the merits of the allegations and counter allegations of the parties herein with regard to the alleged disputes and discrepancies of the subject land.
23. With the above observations, this instant contempt proceeding, ***CPAN 383 of 2025*** stands ***dropped*** and ***closed***.
24. The application, ***CPAN 383 of 2025*** stands ***dismissed***, without any order as to costs.
25. Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)