

20.03.2026
Item No. 15
Court No.8.
S. De
265925

**C.R.C. 1 of 2022
with
IA No. CAN/1/2020
(Old No. CAN/3613/2020)**

**Md. Ziaur Rahaman Molla.
Vs
Pappu Molla & Ors.**

Mr. Arif Ali,
...for the petitioner.

Mr. Anindya Halder,
...for the alleged contemnor nos. 1 & 2.

Dictated by Kausik Chanda, J.

This contempt application has been filed alleging the wilful violation of an order dated February 24, 2020, by which F.M.A. 542 of 2020 was disposed of. The operative portion of the said order reads as follows:

“What appears to be the indisputable position is that the appellant is in possession of the property at Z-3/40/6 and Z-3/40/6/A to D. Dr. Abdul Khabir Road, P.O. Badartala, Kolkata-700044. Since it is evident that the appellant is in possession of the relevant property, the private respondents are given liberty to take appropriate steps in accordance with law, including by filing a civil suit, to oust the

petitioner from the property. However, the private respondents are restrained from taking law into their own hands or seeking to disturb the petitioner's possession in the property otherwise than in accordance with the procedure established by law."

However, it appears that the said order was challenged by way of a Special Leave Petition filed before the Hon'ble Supreme Court, which was not entertained on the ground of delay. The order dated April 1, 2022, is reproduced below:

"Learned counsel for the petitioner disputes that respondent no.2 was in possession of the portion of the property in question, and states that civil proceedings are already pending.

In spite of the aforesaid arguments, we are not inclined to issue notice on the application seeking condonation of delay as well as on the special leave petition. It will be open to the petitioner to raise all issues and contentions in appropriate proceedings.

Accordingly, the application seeking condonation of delay and the special leave petition are dismissed.

*Pending application(s), if any,
shall stand disposed of.”*

It, therefore, appears that although possession of the relevant premises was not disputed before this Court, the alleged contemnors disputed the same before the Hon’ble Supreme Court.

Learned counsel appearing for the petitioner, however, has strongly contended that the petitioner was dispossessed from the property in question in violation of the order dated February 24, 2020, by the alleged contemnors, who thereafter obtained an order of status quo from the Civil Court by instituting a partition suit while suppressing the said order passed by this Court.

We are of the view that, in the present contempt proceedings, it is not possible to inquire into the allegation of dispossession made by the petitioner without permitting the parties to adduce evidence. It is, therefore, difficult to conclude that there has been any deliberate and wilful violation of the order passed by this Court. In our view, the “appropriate proceeding,” as referred to in the order of the Hon’ble Supreme Court dated April 1, 2022, for adjudicating the issue concerning the disputed possession of the property in question, would be the proceeding before

the Civil Court in the pending partition suit filed by alleged contemnor no. 1.

In view of the aforesaid, we are not inclined to keep the present contempt application pending. Accordingly, the same is disposed of, granting liberty to the petitioner to file an appropriate application in the pending partition suit seeking reliefs in accordance with law.

The Rule stands discharged.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)