

21.12.2022
sayandeep
Sl. No. 03
Ct. No. 05

CAPN 1428 of 2022
in
WPA 27501 of 2022

Israt Begam & Anr.
-Versus-
Purnendu Kumar Maji & Ors.

Mr. Pappu Adhikari
Mr. Aritra Roychowdhury
.....for the petitioners
Mr. Asish Kumar Guha
Mr. J. Kr. Gupta
Mr. Naren Ghoshdastidar
.....for the alleged contemnors
Mr. Partha Pratim Roy
Mr. Sarbananda Sanyal
.....for the respondent No. 9

This order is being passed in continuation to the order passed by this Court today morning directing the personal appearance of the alleged contemnor No. 3. The alleged contemnor no. 3 is present in Court. The alleged contemnor no. 3 was present at the site where the demolition took place.

A few relevant dates are required to be recorded before this Court proceeds to pass the order.

- (i) Learned counsel appearing for the petitioners mentioned the matter for listing on 12.12.2022. Leave was given pursuant to such mentioning and the matter was directed to be listed on the following date, i.e., 13.12.2022.

- (ii) The notice of mentioning was received by the alleged contemnors on 12.12.2022 itself.
- (iii) This Court heard the matter and passed the order (in contempt) directing the respondents/ alleged contemnors to stay their hands from further demolition. The order was passed between 12-12:30 p.m. on 13.12.2022. The alleged contemnors were represented before the Court on that date.
- (iv) The order was verbally communicated to the alleged contemnor no. 3, who was present on site at 12:30 p.m. on the date the order was passed, i.e., on 13.12.2022. The alleged contemnors did not pay any heed to the verbal communication.
- (v) The gist of the order was therefore communicated to the alleged contemnor no. 3 at 1:20 p.m. on 13.12.2022.

The demolition of the petitioners' pucca structures on the highway commenced from 10 a.m. in the morning of 13.12.2022, i.e., the day when the matter was listed for hearing. This fact is recorded in

the very first paragraph of the order in contempt and the Court hence took up the matter on an urgent basis. Learned counsel appearing for the petitioners informed the Court that the demolition had commenced from 10 a.m. on 13.12.2022.

The photograph shown to the Court today, when the contempt proceeding is being taken up for hearing shows that as of 14:20 hrs.(2:20 p.m.) on 13.12.2022, all that remained of the petitioners' pucca structures was a heap of rubble. The photograph does not reflect any remnants of the structures after the demolition by the alleged contemnors from 10 a.m. till 4 p.m. on 13.12.2022.

The acts of contempt have been crystallized in the following manner.

First, the alleged contemnors had notice that the matter would be listed on 13.12.2022. The alleged contemnors were in any event represented when the matter was heard and presented their case against any interim relief being granted to the petitioners.

After considering the respective submissions of the parties, the Court found a violation of the statutory requirement under Section 51B(1) of the West Bengal Land Reforms Act, 1955. Having found such non-compliance the Court deemed it fit to direct the alleged contemnors to forthwith stop any further demolition of

petitioners' plot namely plot No. 747 until the matter is heard out on affidavits.

Therefore, the alleged contemnors were (a) fully aware of the matter being listed on 13.12.2022; (b) were allowed to place their case through counsel and (c) were made aware of the order of stay on further demolition. The alleged contemnors nonetheless proceeded to demolish the petitioners' permanent structures until 4 p.m. on 13.12.2022 despite the order being communicated at 1:20/2:16 p.m.

Because of the urgency, the parties were given liberty to communicate the order to the persons present at site as dictated in open Court. The demolition however continued and the respondents acted with full knowledge of the order.

From the above facts it is evident that the conduct of the respondents/alleged contemnors is in clear defiance of the order passed by the Court. The defiance arose in two stages; first, when the alleged contemnor was made aware that the matter would be heard on 13.12.2022 and second, after the alleged contemnors were verbally communicated of the order and later with the gist of the order at 1:20 p.m./2:16 p.m. respectively, on 13.12.2022. The alleged contemnors (in their wisdom) thought it expedient to erase the subject matter of dispute and render the writ petition infructuous.

Any person or citizen can approach a writ court subject to a crystallized right and a corresponding duty on the part of the authorities amenable under Article 226 of the Constitution of India for enforcement of such right. The expectation is that there will be an adjudication of the dispute brought before the Court in the form of writs, orders and directions. The dignity and majesty of a Court is lowered not only from the willful disobedience of the orders and directions passed by the Court but also from an act amounting to interference with or obstructing the administration of justice.

The alleged contemnors have lowered the dignity and majesty of this Court by willful disobedience of the order dated 13.12.2022 and by attempting to frustrate the order by demolishing the subject matter of the dispute. This is a clear instance of obstructing the administration of justice. The photograph taken of the rubble at the site at 2:20 p.m. on the day when the order was passed is testimony to the contumacious conduct and the blatant act of defiance on the part of the alleged contemnors.

The deference to orders of Court must be shown by a corresponding act of contrition. The alleged contemnors must pay for their conduct.

Therefore, until the matter is further heard on affidavits, the alleged contemnors must first purge themselves of the contempt. The direction on the

alleged contemnors to reconstruct and rebuild the ten shops rooms, though seriously considered by the Court today morning, may not practically be feasible. Hence, to make good the act of wilful disobedience of the order passed by this Court, the alleged contemnors shall pay Rs. 30 lakhs to the petitioners within a fortnight from today.

Counsel appearing for the petitioners was requested to give an estimate of the cost of rebuilding the shop rooms. The estimate has been given at Rs. 30,20,000/- for a total area of 1680 sq.ft. The estimated cost is taken to be correct at this stage. The calculation has also been shared with learned counsel appearing for the alleged contemnors.

The alleged contemnors shall file an affidavit of compliance on 6th January, 2023.

The alleged contemnors shall be at liberty of filing their respective affidavits by 3rd January, 2023. Reply to be filed within the returnable date.

List this matter on 6th January, 2023.

Personal appearance of the alleged contemnor no. 3 on the returnable date is dispensed with.

(Moushumi Bhattacharya, J.)