

Vs. Mr. P.T. Sharma , Joint Secretary (La), Kmda and anr.Alleg

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Court : Kolkata

Decided On : Aug-22-2014

Judge : Indira Banerjee

Respondent : Mr. P.T. Sharma , Joint Secretary (La), Kmda and anr.Alleg

Judgement :

ORDER

SHEET G.A.No.688 of 2013 C.C.No.22 of 2012 With W.P.No.32 of 2010 IN THE HIGH COURT AT CALCUTTA Special Jurisdiction [Contempt].ORIGINAL SIDE UNITED ENGINEERING WORKS Versus Mr.P.T.SHARMA , JOINT SECRETARY (LA).KMd.& ANR.

Petitioner Alleged Contemnors BEFORE: The Hon'ble JUSTICE INDIRA BANERJEE Date : 22nd August, 2014.

For Petitioner : Mr.Aniruddha Mitra with Mr.Shib Shankar Dey, Adversus This is an application for contempt for violation of an order dated 5th April, 2010 passed by this Court in a writ petition filed by the writ petitioner seeking orders on the respondent authorities to forthwith execute the lease deed for 99 years in respect of plots of land specified in the letter dated 24th September, 1987.

This Court recorded that the entire lease premium had duly been paid.

In view of the submission of the learned Counsel appearing on behalf of Kolkata Metropolitan Development Authority [KMDA].that the petitioners had been asked to send their authorised representative to the office of KMd.at Unnayan Bhawan, Kolkata, to collect the draft lease for approval and execution, this Court found that the writ application had become infructuous.

The writ petition was disposed of as follows : The writ application has, thus, become infructuous and no further order need be passed except to direct the respondent to complete the formalities expeditiously, preferably within sixty days from the date of communication of this order.

Needless to mention that the petitioner shall pay the requisite charges and shall comply with the requisite formalities required on the part of the petitioner.

The writ petition is disposed of. This Court observed that the writ application, having become infructuous, no further order need be passed except to direct the respondent authorities to complete the formalities expeditiously preferably within 60 days from the date of communication of the said order.

The direction was with the rider that the petitioner would pay the requisite charges and comply with the requisite formalities on the part of the petitioner.

After the aforesaid order was passed, the authorities of KMd.demanded balance 50% premium of Rs.64,000/- and stated that the lease deed would be executed on receipt of the balance payments.

The aforesaid amount, it is submitted, has also been paid.

By a letter dated 9th September, 2011, the petitioner called upon the authorities of KMd.to complete the formalities.

The letter was followed by several reminders.After two years.on 28th February, 2013, KMd.called upon the petitioner to deposit Rs.1,35,13,599/- as service charge and 30% of the current land value for allowing change of name.

This demand apparently constitutes a fresh cause of action.

A person can be penalised for contempt only in case of deliberate and wilful violation of a clear order of Court.

In the instant case perhaps the authorities have taken advantage of the observation in the judgement and order that execution of the deed of lease would be subject to payment of requisite charges.

In contempt proceedings, the Court is only to see whether the order has been violated.

The Court cannot go behind the order.

In view of the direction that the lease deed should be executed subject to payment of requisite charges, this Court is unable to penalise the alleged contemnors for contempt.

It will be open to the petitioners to challenge the order in the appropriate forum, if so advised.

The contempt proceedings are dropped.

The rule is discharged.

Urgent certified copy of this order, if applied for, be supplied to the parties upon compliance with requisite formalities.

(INDIRA BANERJEE, J.) K.

Banerjee A.R.[C.R.].

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