

IN THE HIGH COURT AT CALCUTTA
[CIRCUIT BENCH AT PORT BLAIR]

CPAN/25/2024

V.K.M.Mohammed Miskin

Vs.

The Tehsildar

Mr.Arul Prasanth ... for the petitioner

Mr. Shatadru Chakraborty
Mr. Dibesh Dwivedi ... for the respondent

June 24, 2024
[SR]
Item Nos.8

The contempt application is taken up for hearing along with the compliance report and the exception filed by the petitioner herein.

It transpires from the affidavit of compliance that in terms of the order dated February 08, 2024 passed in WPA/124/2024, the Tehsildar, has disposed of the dispute which was pending before him.

Learned counsel for the petitioner argues that an incorrect and false affidavit has been filed by way of affidavit of compliance to the extent that in the order annexed to the same, it transpires that the Tehsildar gave ample opportunity to both the parties. However, the petitioner challenges such recording of the Tehsildar and submits that no notice of hearing was issued to the petitioner before passing the said order. Accordingly, it is submitted that the respondent/alleged contemnor is in contempt, having deliberately and willfully violated the order of this Court.

Learned counsel for the alleged contemnor controverts such allegation and submits that on the face of the order passed by the

Tehsildar in compliance of the order dated February 08, 2024, an opportunity of hearing is seen to have been given to both sides. Accordingly, it is submitted that there is no contumacious act on the part of the respondent.

Upon a careful scrutiny of the order dated February 08, 2024 passed in WPA/124/2024, it appears that the learned Single Judge recorded that it was inconceivable as to how the Tehsildar could be sitting on the petitioner's application for more than three years without taking any steps and accordingly, the learned Single Judge directed the Tehsildar to dispose of the application within a period of three weeks from that date.

From the order annexed to the affidavit of compliance, it transpires that the Tehsildar disposed of the matter and passed the final order on April 10, 2024. Although, strictly speaking, the timeline of three weeks granted by the learned Single Judge was not complied with by the Tehsildar since the disposal came after about a month from the order, I find that substantial compliance took place, inasmuch the Tehsildar has actually disposed of the dispute raised before him by passing a reasoned order in substantial compliance with the order dated February, 08, 2024.

Thus, there is no scope of any willful or deliberate violation of the Court's order being read into such action of the Tehsildar *ex-facie*.

The petitioner, however, has disputed the recording in the said final order of the Tehsildar to the effect that ample opportunity was provided to both the parties.

However, in the event the petitioner is aggrieved by the final order of the Tehsildar, on whatsoever ground, including the ground that no opportunity of hearing was given to the petitioner, it is

otherwise upon for the petitioner to challenge the said order on its own merits by way of an independent writ petition. It is beyond the scope of the court while exercising contempt jurisdiction to enter into the merits of the final order passed in compliance with the previous order of this court.

Hence, there is no necessity of keeping the contempt petition pending. Accordingly, **CPAN/25/2024** is disposed of as infructuous in view of the final order passed by the Tehsildar.

However, it is kept open for the petitioner to challenge the final order of the Tehsildar dated April 10, 2024 on all grounds, including the ground that no opportunity of hearing was given to the petitioner as recorded therein. If such challenge is preferred, nothing in this order shall preclude the court taking up the matter from deciding the same independently in accordance with law on its own merits.

No order as to costs.

Urgent certified server copies, if applied for, be issued to the parties upon compliance of due formalities.

(Sabyasachi Bhattacharyya, J.)