

(2009) 08 CAL CK 0041
In the Calcutta High Court

Case No : Writ Petition No. 23620 (W) of 2005 Re: C.P.A.N. 508 of 2009

Sri Sabyasachi Mahato

APPELLANT

Vs

Sri Dibyen Mukherjee

RESPONDENT

Date of Decision : 27-08-2009

Acts Referred:

Contempt of Courts Act, 1971 — Section 20

Citation : (2009) 08 CAL CK 0041

Hon'ble Judges : Biswanath Somadder, J

Bench : Single Bench

Advocate : G.S. De and Mr. Rudranil De, for the Appellant;

Final Decision : Dismissed

Judgement

Biswanath Somadder, J.—The instant contempt application has been filed by the writ petitioner drawing attention of this Court for alleged deliberate violation of the order passed on 25th September, 2007 on W.P. No. 23620(W) of 2005.

2. Upon perusing the contempt petition it appears that a photostat copy of the certified photostat copy of the order dated 25th September, 2007 was sought to be communicated to the office of the alleged contemnor/respondent by a letter dated 15th October, 2007 sent by registered post with acknowledgment due, by learned advocate for the petitioner. However, no acknowledgment due card has been annexed to the instant contempt petition to demonstrate effective service of the Court's order upon the alleged contemnor/respondent. The petitioner, however, has annexed a letter dated 9th March, 2009 addressed to the alleged contemnor/respondent, being the Director of School Education, Govt. of West Bengal wherein it has been alleged that the order passed by this Court on 25th September, 2007 has not been complied with by the said authority.

3. I am of the view that the petitioner has made a belated attempt to invoke the special jurisdiction of this Court by taking out the instant contempt application after almost two years from the date of passing of the order on 25th September,

2007. The action in contempt, if at all maintainable, ought to have been initiated by bringing the alleged violation to the Court's notice within a year from the date of communication of the order passed by this Court on 25th September, 2007. The limitation for actions for contempt has been clearly defined u/s 20 of the Contempt of Courts Act, 1971 which reads as follows:

No Court shall initiate any proceedings for contempt, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed".

4. The above quoted provision of law clearly prescribes limitation for actions for contempt and it is now well settled that initiation of the proceedings for contempt, based on conscious application of mind of the Court to the facts and material before it, must take place within a period of one year from the date on which the contempt is alleged to have been committed, failing which, the jurisdiction to initiate any proceedings for contempt is lost. The purported attempt by the petitioner to invoke the special jurisdiction of this Court, belatedly, simply by annexing a copy of the letter dated 9th March, 2009, cannot be allowed, since in this letter itself there is a reference to the earlier communication by the learned advocate for the petitioner in respect of the order passed by this Court on 25th September, 2007. Nothing has been stated in the instant contempt petition as to why the petitioner failed to invoke this Court's special jurisdiction within the period specified u/s 20 of the Contempt of Courts Act, 1971, upon expiry of the period specified in the order dated 25th September, 2007.

5. For the reasons stated above, in my view, the application for contempt is barred u/s 20 of the Contempt of Courts Act of 1971 and is therefore not maintainable at this belated stage. Accordingly, the said application stands dismissed.