

GAHC010005972013



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/2029/2013

M/S VERSHA TUBES PVT. LTD.

A COMPANY INCORPORATED UNDER THE COMPANIES ACT, 1956 AND
HAVING ITS REGISTERED OFFICE AT NILADHARI SHIKAR BUILDING, 7TH
FLOOR, HILL CART ROAD-SILIGURI-734401, WEST BENGAL AND HAVING
ITS FACTORY AT EPIP AMINGAON, GUWAHATI, DIST- KAMRUP, ASSAM, IS
REPRESENTED BY ITS MANAGING DIRECTOR SMTI. BINADEVI AGARWAL

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM,
INDUSTRIES AND COMMERCE DEPARTMENT, DISPUR, GHY-6

2:THE DIRECTOR OF INDUSTRIES AND COMMERCE
ASSAM
GHY-21

3:THE ASSAM INDUSTRIAL DEVELOPMENT CORPORATION LTD
A GOVT. OF ASSAM UNDERTAKING
R.G. BARUAH ROAD
GHY-24
REPRESENTED BY THE MANAGING DIRECTOR

4:THE MANAGING DIRECTOR
ASSAM INDUSTRIAL DEVELOPMENT CORPORATION LTD.
A GOVT. OF ASSAM UNDERTAKING
R.G.B. ROAD
GHY-2

Advocate for the Petitioner : MR.D SENAPATI

Advocate for the Respondent : MR. J K GOSWAMI (R-3,4)

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 24/08/2023

Heard Mr. G.N. Sahewalla, learned senior counsel assisted by Ms. D. J. Sahewalla, learned counsel for the writ petitioner. Also heard Mr. A. Kalita, learned Standing Counsel, Industries and Commerce Department, Assam, appearing for the respondent nos. 1 & 2 and Mr. J.K. Goswami, learned Additional Senior Government Advocate, Assam, representing the respondent nos. 3 and 4.

By filing this writ petition, the order dated 14/03/2013 issued by the Managing Director of Assam Industrial Development Corporation Ltd. i.e. the respondent no. 3, has been put to challenge on the ground that the impugned order has been issued in violation of the relevant legal provisions.

By the impugned order dated 14/03/2013, the respondent no.3 had terminated the lease agreement, by means of which, a plot of land measuring 5500 square meters was permitted to be occupied by the petitioner in the Export Promotion Industrial Park (EPIP) at Amingaon for a period of 60 years on payment of lease rent. As per the impugned order dated 14/03/2013, the petitioner had failed to pay the outstanding lease rent amounting to Rs. 24,73,414/- (approximately) due till February, 2013, as a result of which, the impugned action had to be initiated.

By virtue of the interim order dated 11/04/2013 passed in this proceeding whereby, the respondent no. 3 was restrained from initiating any coercive action against the petitioner subject to deposit of Rs. 10,00,000/- (Rupees ten lakhs), the petitioner is continuing to occupy the plot of land till today.

According to Mr. Sahewalla, there are articles belonging to the petitioner valued at more than Rs. 9 crores, which are lying in the plot of land and, therefore, if the impugned order is implemented,

the same would result into serious injury to the interest of the petitioner. The learned senior counsel has also argued that the impugned order has been issued in contravention of section 108 of the *Transfer of Properties Act, 1882*.

The aforesaid assertion of the petitioner's counsel has, however, been denied and disputed by the learned counsel appearing for the official respondents.

Having heard the learned counsel for the parties, it appears that there is a civil dispute arising by and between the parties centering around the lease agreement raising a dispute as to the existence of right of the petitioner, if any, to continue in occupation of the land. In the opinion of this Court, the said dispute would come within the purview of the Transfer of Property Act of 1882. As such, this Court is of the view that the dispute cannot be entertained and/or adjudicated in a writ petition filed under Article 226 of the Constitution of India.

In view of the above, by granting 90 (ninety) days time to the petitioner to approach the Civil Court by instituting appropriate proceeding, if so advised, this writ petition stands disposed of by clarifying that the interim order dated 11/04/2013 passed in this case shall continue to hold the field for 90 days from today.

The writ petition stands disposed of.

JUDGE

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Comparing Assistant