

W.P.A. 2545 of 2021
(Binod Kr. Singh & Ors. vs. Union of India & Ors.)

Mr. Dilip Samanta
Mr. Biswapriya Samanta
.... For the Petitioners

Mr. Prabal Mukherjee
.... For the Respondents

Mr. Ayan Banerjee
.... For the State

The grievance of the petitioners is directed against an order dated 4th December, 2018 passed by the Estate Officer under the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. It is submitted on behalf of the petitioners that they are 22 occupiers of the subject premises being Plot No. 16 South Eastern Railway Siding, Kolkata which is under the ownership of respondent Port Trust Authority. It is further submitted on behalf of petitioners that they are in occupation and in physical possession of the aforementioned premises and the proceedings initiated by the respondents authorities are without authority of law. In particular, the petitioners submit that no notice of any kind whatsoever was given by the respondents authorities to any of the petitioners. The petitioners also submit that since no order has been served on them under the aforementioned Act, there is no question of filing any appeal challenging the final order issued by the Estate Officer. The petitioners

further submit that the petitioners would be evicted from the aforementioned premises unless this Court protects their rights. In this connection, the petitioners rely on the decision reported in ***Olga Tellis and Others vs. Bombay Municipal Corporation and Others*** reported in **1985(3) SCC 545**.

Counsel on behalf of the Kolkata Port Trust Authorities submits that the writ petition is not maintainable. He submits that the petitioners are all sub-lessees under one Shamsul Hasan against whom the Kolkata Port Trust had initiated lawful proceedings under the aforementioned Act. He further submits that the petitioners have all been set up by the said erstwhile lessee and the entire object of this petition is to prevent the respondent authorities from taking steps under the Act. He further submits that the petitioners had resisted the respondent authorities from taking lawful possession of the premises under the Act and it is only thereafter that they have now approached this Court. In this connection, the respondent authorities rely on a communication dated 11th January, 2021 issued to the Officer-in-charge, South Port Police Station for police assistance.

I have considered the submissions made on behalf of the parties. I have also perused the final order

dated 4th December, 2018 passed by the Estate Officer. I find that the said order is a well reasoned order and has been passed after taking into consideration all the facts and circumstances of the case. There is no perversity in the said order nor is there any error which the petitioners have been able to demonstrate which warrants interference by this Court. The petitioners have been unable to demonstrate an iota of legal right to deserve any protective order from this Court.

In support of the proposition that there is no requirement of serving individual notices on an unauthorised occupants reliance is placed on an unreported decision passed by the Division Bench of this Hon'ble Court in APOT 124 of 2006 (Board of Trustees for the Port of Kolkata and Ors. vs. Portside Estates Limited & Ors.).

In this connection, it may also be relevant to highlight that under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 the entire purpose of the Act is to provide to a speedy machinery for the eviction of persons who are in unauthorised occupation. In the absence of the petitioners being unable to demonstrate an iota of a legal right to continue to be in possession of the concerned premises, I find no merit in this writ petition.

Accordingly, WPA 2545 of 2021 is dismissed.

However, there will be no order as to costs.

Photostat certified copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Ravi Krishan Kapur, J.)