

**In the High Court at Calcutta
Civil Revisional Jurisdiction
Appellate Side**

The Hon'ble Justice Sabyasachi Bhattacharyya

C.O. No.746 of 2020

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CAN 1 of 2020 (CAN 2412 of 2020)

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CAN 2 of 2020 (CAN 4914 of 2020)

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CAN 3 of 2020 (CAN 4915 of 2020)

**Board of Trustees for the Port of Kolkata
Vs.**

Metal Box India Limited and another

With

C.O. No. 1411 of 2021

Metal Box India Limited

Vs.

**Board of Trustees for the Shyama Prasad
Mukherjee Port and another**

For the petitioner in
C.O. No. 746 of 2020

&

opposite parties in
C.O. No. 1411 of 2021

:

Mr. Jaydip Kar,
Mr. Subhankar Nag,
Mr. Gaurav Khaitan

For the opposite parties in
C.O. No. 746 of 2020

&

petitioner in
C.O. No. 1411 of 2021

:

Mr. Shyamal Sarkar,
Mr. Sankarsan Sarkar,
Mr. Meghajit Mukherjee

Hearing concluded on : 06.07.2021
Judgment on : 03.09.2021

Sabyasachi Bhattacharyya, J:-

1. The present revisional applications are preferred against the same judgment and order, whereby an appeal under Section 9 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (in short “the P.P. Act”) was allowed, thereby setting aside the order of eviction passed under Section 5 of the P.P. Act by the Estate Officer.
2. The Board of Trustees for the Port of Kolkata (hereinafter referred to as “the KoPT”) has preferred C.O. No. 746 of 2020, substantially challenging the decision of the appellate forum, reversing the order of eviction.
3. Learned senior counsel appearing for the KOPT contends that the finding of the Appellate Court that the premises-in-question are not governed by the P.P. Act, is not tenable in the eye of law. Learned counsel argues that the Appellate Court erroneously interpreted the ratio laid down in *Suhas H. Pophale Vs. Oriental Insurance Company Limited and its Estate Officer*, reported at (2014) 4 SCC 657, as followed in *Band Box Private Limited Vs. Estate Officer, Punjab and Sind Bank and another*, reported at (2014) 16 SCC 321. It was held in the former report that there are two categories of occupants who come within the purview of the P.P. Act - persons who have come in occupation of public premises after September 16, 1958, when the

predecessor statute of the P.P. Act, 1971 (being the P.P. Act, 1958) came into force and persons in occupation of properties which went under the ownership of Government or associated entities, fall within the definition of “public premises” as contemplated in the Act. The Appellate court proceeded to hold that since Metal Box, the petitioner in C.O. No. 1411 of 2021, came into occupation of the disputed premises prior to September 16, 1958, Metal Box is not an “unauthorised occupant” of the property, since it falls within the exceptions contemplated in *Suhas H. Pophale* (supra) and *Band Box Private Limited* (supra).

4. It is argued that the said distinction has to be seen in proper perspective. Although Metal Box came into occupation of the suit property prior to September 16, 1958, the property-in-question was all along a “public premises” within the definition of the 1958 as well as 1971 Acts. As such, when the notice under Section 4 of the P.P. Act was issued and the proceeding under Section 5 of the said Act initiated subsequently, in view of the initial authority under which the Metal Box was in occupation having expired by efflux of time, the Metal Box had become an unauthorised occupant as envisaged in the P.P. Acts.
5. Learned counsel next assails the observation of the Appellate Court that there was violation of Natural Justice on the part of the Estate Officer on several grounds. The Appellate Court had found that, since the summery and evidence adduced in the proceeding before the

Estate Officer was not recorded in consonance with Section 8 of the P.P. Act and Rule 5 of the Public Premises (Eviction of Unauthorised Occupants) Rules, 1971 (for the sake of brevity “the Rules”) and no opportunity was given to the occupant to adduce oral evidence and/or to cross-examine the KoPT on the documents relied on by the latter, the order of the Estate Officer was vitiated.

6. Learned senior counsel for KoPT argues that at no point of time did the Metal Box seek liberty or leave to adduce oral evidence. Since a proceeding for eviction under Section 5 is of a summary nature, the matter was decided on affidavits and the materials produced before the Estate Officer. There was no question of depriving the occupant of any right, to which the occupant is otherwise entitled, since repeated opportunities of hearing were given to the occupant that is Metal Box.
7. As regards the other observation of the Appellate Court, regarding the rent for the disputed property being governed by the Rehabilitation Scheme and not the Schedule of Rates framed by the KoPT under the Major Port Trusts Act, 1963 .(in short, “the M.P.T. Act”), learned senior counsel submits that he said observation was perverse and contrary to law.
8. Under the M.P.T. Act, the KoPT is the sole authority to decide the rent as per its Schedule of Rates, which is arrived at upon prior assessment as per established legal procedure. Section 22 of the Sick Industrial Companies (Special Provisions) Act, 1985 (hereinafter

referred to as “the SICA”) only covers monetary dues and not proceedings for eviction.

9. By placing reliance on the judgments reported at (1992) 3 SCC 1 [*Shree Chamundi Mopeds Ltd. Vs. Church of South India Trust Association CSI Cinod Secretariat, Madras*] and (1999) 8 SCC 11 [*Gujarat Steel Tube Co. Ltd. Vs. Virchandbhai B. Shah and others*], it is argued that the Supreme Court specifically held therein that Section 22 of SICA is not a bar to a proceeding for eviction under the P.P. Act.
10. Section 32, read with Sections 26 and 31, of SICA is not applicable in the present case at all, nor is the Insolvency and Bankruptcy Code, 2016 (for the sake of brevity, “the IBC”) attracted to the present case. Any scheme formulated under the SICA, now replaced by the IBC as schemes under Section 31 of the IBC in place of Section 18 (12), SICA, contemplates a bar to proceedings in respect of assets of the companies involved. In the present case, the KoPT has been the owner of the land at all material times and, as such, the disputed property was not an asset of the Metal Box at all. The repeal of SICA and introduction of IBC did not alter the legal position in respect to the fact that the eviction proceeding was filed by the owner, that is, the KoPT and fell outside the conspectus of resolution schemes or any bar envisaged under the SICA and/or the IBC.
11. In continuance of the previous argument, learned counsel further submits that *Suhas H. Pophale* (supra) and *Band Box Private Limited* (supra) cannot be said to be applicable in the present case, since the

both the said judgments encompass statutory tenants under local Rent Control laws, whereas the present lease was governed by the Transfer of Property Act, 1882 (hereinafter referred to as “the T.P. Act”) and expired by efflux of time. Placing reliance on the judgments of this court, reported at (2015) 5 CHN Cal 1 [*M/s B.C. Shaw & Sons Vs. Union of India and others*] and (2009) CHN Cal 274 [*Board of Trustees for the Port of Kolkata and another Vs. Vijay Kumar Arya and others*], learned senior counsel argues that in case of a lease given under the T.P. Act, the introduction of the P.P. Act brought about a mere change of forum from the Civil Court to the Estate Officer but did not furnish a ground to hold that the P.P. Act was not applicable to the let-out premises.

12. After expiry of the lease by efflux of time in the year 1982, the occupant came within the contemplation of the definition of “unauthorised occupants” in the P.P. Act, since the authority (lease deed), which was granted in 1954 with effect from 1952, for a period of 30 years, having ceased upon expiry of the lease in 1982 by efflux of time, the Metal Box was rendered an unauthorised occupant.
13. Learned senior counsel appearing the KoPT further contends that the KoPT was permitted to proceed with the eviction upon issuance of a fresh notice under Section 4 of the P.P. Act by an order passed by a co-ordinate bench of this Court on June 1, 1988. As such, the eviction proceeding was validly initiated and continued by the KoPT under the provisions of the P.P. Act.

- 14.** Learned senior counsel appearing for the Metal Box, on the other hand, argues that the Appellate Court acted without jurisdiction in failing to appreciate that the multiple notices issued under Section 4 of the P.P. Act issued by the KoPT were not merely precursors to eviction proceedings but the initiation of eviction proceedings themselves, Section 5 of the P.P. Act merely laying down the procedure to be followed.
- 15.** In view of the prior eviction proceedings initiated under two previous notices under Section 4 having been aborted by the KoPT, the third such proceeding, from which the instant revision arises, was not maintainable in law.
- 16.** Learned senior counsel for the Metal Box places reliance on *Suhas H. Pophale* (supra) and *Band Box Private Limited* (supra) to argue that no distinction in the light as sought to be projected on behalf of the KoPT was drawn in paragraph no.64 of *Suhas H. Pophale* (supra). The first category excluded from the purview of the P.P. Act included all pre-1958 occupants, which description fits the Metal Box, which was admittedly in occupation by virtue of the lease deed of 1954, with effect from 1952, that is, much prior to the year 1958.
- 17.** It is reiterated by learned senior counsel for the Metal Box that the KoPT dues, also covering the arrears of rent, were clearly covered by and mentioned in the Rehabilitation Scheme initially framed under the SICA and thereafter becoming a resolution plan by operation of the IBC.

- 18.** As such, there cannot arise any question that the KoPT, in proceeding with the eviction of the Metal Box, and/or the Estate Officer, in passing the eviction order, acted palpably without jurisdiction, in violation of the bar contemplated both in the SICA and the IBC.
- 19.** As regards violation of Natural Justice, it is argued on behalf of the Metal Box that Section 8 of the P.P. Act and Rule 5 of the Rules clearly stipulate that the summary of evidence is required to be recorded by the Estate Officer. Such statutory requirement being contravened and the opportunity to cross-examine the KoPT personnel on the documents relied on by the KoPT being denied to the Metal Box, constituted a gross violation of Natural Justice, which vitiated the order of the Estate Officer.
- 20.** It is argued by learned senior counsel for the Metal Box that the KoPT participated in the BIFR and AAIFR proceeding as well as the proceedings in the Delhi High Court, thereby being debarred by estoppel, in view of such conduct, from initiating the eviction proceedings under the P.P. Act.
- 21.** It is pointed out that the order of the Delhi High Court extended the Rehabilitation Scheme-in-question regarding the Metal Box till March 31, 2022, as such precluding the Estate Officer from proceeding with the eviction of the Metal Box under Section 5 of the P.P. Act.
- 22.** The Scheme sanctioned under SICA is now a resolution plan under Section 31(1) of the IBC and is binding on the KoPT, it is argued on behalf of the Metal Box.

- 23.** Learned senior counsel appearing for the Metal Box, in support of the revisional application filed by the said Company (C.O. No.1411 of 2021), contends that the Appellate Court acted without jurisdiction in arriving at the conclusion that multiple notices under Section 4 of the P.P. Act are maintainable. Learned counsel argues that Section 4 contemplates the initiation of an eviction proceeding, of which Section 5 is merely a continuation. Hence, it is submitted that, after having aborted the previous proceedings initiated by service of notices under Section 4 of the P.P. Act, the eviction proceeding-in-question, initiated upon a third notice under Section 4, which was the genesis of the present eviction proceeding, was not maintainable in law. Learned senior counsel for the opposite parties places reliance on the language of Section 4 to substantiate such argument.
- 24.** For a proper consideration of the dispute, the exact language of Sections 4 and 5 of the P.P. Act, 1971 is required to be considered and such provisions are, accordingly, set out below:

“4. Issue of notice to show cause against order of eviction.

– (1) If the estate officer has information that any person is in unauthorised occupation of any public premises and that he should be evicted, the estate officer shall issue in the manner hereinafter provided a notice in writing within seven working days from the date of receipt of the information regarding the unauthorised occupation calling upon the person concerned to show cause why an order of eviction should not be made.

(1-A) If the estate officer knows or has reasons to believe that any person is in unauthorised occupation of the public premises, then, without prejudice to the provisions of sub-section (1), he shall forthwith

issue a notice in writing calling upon the person concerned to show cause why an order of eviction should not be made.

(1-B) Any delay in issuing a notice referred to in sub-sections (1) and (1-A) shall not vitiate the proceedings under this Act.

(2) The notice shall—

(a) specify the grounds on which the order of eviction is proposed to be made; and

(b) require all persons concerned, that is to say, all persons who are, or may be, in occupation of, or claim interest in, the public premises,—

(i) to show cause, if any, against the proposed order on or before such date as is specified in the notice, being a date not [later than] seven days from the date of issue thereof; and

(ii) to appear before the estate officer on the date specified in the notice along with the evidence which they intend to produce in support of the cause shown, and also for personal hearing, if such hearing is desired.

(3) The estate officer shall cause the notice to be served by having it affixed on the outer door or some other conspicuous part of the public premises and in such other manner as may be prescribed, whereupon the notice shall be deemed to have been duly given to all persons concerned.

(4) Omitted by Act 7 of 1994, S. 5 (w.e.f. 1-6-1994).

5. Eviction of unauthorised occupants.—*(1) If, after considering the cause, if any, shown by any person in pursuance of a notice under Section 4 and any evidence produced by him in support of the same and after personal hearing, if any, given under sub-clause (ii) of clause (b) of sub-section (2) of Section 4, the estate officer is satisfied that the public premises are in unauthorised occupation, the estate officer shall make an order of eviction, for reasons to be recorded therein, directing that the public premises shall be vacated,*

on such date as may be specified in the order but not later than fifteen days from the date of the order, by all persons who may be in occupation thereof or any part thereof, and cause a copy of the order to be affixed on the outer door or some other conspicuous part of the public premises:

Provided that every order under this sub-section shall be made by the estate officer as expeditiously as possible and all endeavour shall be made by him to issue the order within fifteen days from the date specified in the notice under sub-section (1) or sub-section (1-A), as the case may be, of Section 4.

(2) If any person refuses or fails to comply with the order of eviction on or before the date specified in the said order or within fifteen days of its publication under sub-section (1), whichever is later, the estate officer or any other officer duly authorised by the estate officer in this behalf may after the date so specified or after the expiry of the period aforesaid, whichever is later, evict that person, and take possession of the public premises and may, for that purpose, use such force as may be necessary:

Provide that if the estate officer is satisfied, for reasons to be recorded in writing, that there exists any compelling reason which prevents that person from vacating the premises within fifteen days, the estate officer may grant another fifteen days from the date of expiry of the order under sub-section (1) to the person to vacate the premises.”

- 25.** Section 4 has a dual component. The first component is comprised of the action of the Estate Officer in coming to a *prima facie* finding that a person is in unauthorised occupation of any public premises and that he should be evicted. Upon such preliminary satisfaction, the Estate Officer issues a notice in the manner as provided in Section 4, calling upon the person concerned to show cause as to why an order

of eviction should not be made, thereby setting the eviction proceeding in motion.

- 26.** The modalities of the notice and service thereof are also indicated in Section 4.
- 27.** The other component is that such notice is the first step taken by the Estate Officer prior to initiating a regular eviction proceeding against such unauthorised occupant.
- 28.** The caption of Section 4 is “issue of notice to show-cause against of eviction”, whereas Section 5 carries the caption “eviction of unauthorised occupants”, thereby indicating the respective scopes of operation of the said two provisions.
- 29.** Only when the Estate Officer, in his/her quasi-judicial authority, after considering the cause shown by the occupant and any evidence, if produced by him in support of the same and after personal hearing, is satisfied that the public premises are in unauthorised occupation, the Estate Officer shall go on to make an order of eviction, following the stipulations of Section 5.
- 30.** However, Section 4 is merely a prelude to the main eviction proceeding and cannot be treated to be the initiation of the eviction proceeding, as opposed to the plaint filed to initiate a suit before a Civil Court.
- 31.** Whereas the plaint and written statement in case of a regular civil suit comprise of the pleadings in such suit, the notice issued under

Section 4 of the P.P. Act is merely the cause of action of an eviction proceeding under Section 5, and not a part of the pleadings.

- 32.** The eviction proceeding starts only upon a cause being shown in reply to such notice by the occupant and after considering any evidence, if produced by the occupant as well as personal hearing, if given to the occupant. However, a notice under Section 4, unlike a plaint in a civil suit, is not the pleading which originates from the proceedings itself.
- 33.** Rather, akin to a notice of suit given under Section 6(4) of the West Bengal Premises Tenancy Act, 1997, a notice under Section 4, comprises the cause of action for an eviction proceeding. The mere stipulation in Section 4 as regards the contents of the notice does not, *ipso facto*, alter the character of a 'notice' to that of a pleading in eviction proceeding. Rather, the issuance of a further notice is deemed in law to operate as waiver of the earlier notices.
- 34.** As such, there could not arise any question of the eviction proceeding-in-question being vitiated by non-prosecution on the part of the KoPT on its previous notices.
- 35.** Even if it was to be assumed for the sake of argument that the notice under Section 4 was an initiation of the proceeding itself, mere non-prosecution with the earlier notices could not have been a ground for precluding the KoPT from issuing a third notice and proceeding to decide the question of eviction of an unauthorised occupant. In such an event, the legal effect would be that the earlier proceedings

initiated by the KoPT remained pending *sine die* and not concluded. Even in such a scenario, the final eviction proceedings could not have been debarred, since there was never any adjudication on merits regarding the eviction of the Metal Box from the disputed premises.

- 36.** As such, the contention of the opposite parties regarding non-maintainability of the eviction proceeding does not stand on a firm footing.
- 37.** As far as the question of applicability of the P.P. Act is concerned, *Suhas H. Pophale* (supra) and *Band Box Private Limited* (supra), read in proper perspective, only brings about a distinction between occupants since prior to September 16, 1958 and other occupants coming into possession thereafter. In case of the latter, the predecessor-statute of the P.P. Act of 1971, that is the P.P. Act, 1958 would automatically come into operation. As such, the inevitable implication is that the rigours of the 1958 Act and/or the subsequent Act of 1971 do not apply *ipso facto* to all pre-September 16, 1958 occupants. However, the case would be different for such occupants who were rendered unauthorized occupants subsequent to enactment of the P.P. Act, 1971.
- 38.** In the present case, the premises were public premises and the Metal Box came in occupation, both prior to September 16, 1958. Hence, at the juncture when the Metal Box came into possession, the KoPT was already a public concern and, resultantly, the premises-in-question

were already public premises within the definition of Section 2(e) of the P.P. Act, 1971 as well as under the predecessor Act of 1958.

39. Hence, the legal position is that when the 1958 Act came into force, the occupation of the Metal Box continued under the authority of the lease deed dated January 25, 1954, commencing from June 11, 1952. However, such authority ceased on the expiry of the lease on June 10, 1982, thereby rendering the Metal Box an unauthorised occupant, since Section 2(g) of the P.P. Act, 1971 includes a person who is in continuance of occupation of a public premise after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises, has expired, to come within the purview of “unauthorised occupation”.
40. As such, although the Metal Box did not automatically become an unauthorised occupant upon the promulgation of the 1958 Act, upon the expiry of the authority under which it was in occupation, that is the lease, on June 19, 1982, its occupation was rendered unauthorised by operation of the P.P. Act, 1971. The concept of ‘holding over’, as envisaged under Section 116 of the Transfer of Property Act, 1882 did not come into play, since the acceptance of occupation charges by the KoPT from the Metal Box after cessation of the authority given by the lease deed, *ipso facto*, does not amount to assent by the KoPT to renew the lease agreement, in the absence of any intention on the part of the KoPT for renewal of the lease having been proved.

41. There cannot arise any question of the Metal Box being a 'premises tenant' under the West Bengal Premises Tenancy Acts of 1956 or 1997, since there was neither any novation of contract, nor any express agreement of tenancy/lease being entered into between the parties afresh.
42. At best, the status of the Metal Box, subsequent to expiry of the lease by efflux of time, was that of a tenant by sufferance which, under Indian Law, is equivalent to that of a trespasser. Hence, the P.P. Act, 1971 squarely came into play to govern the disputed premises on and from June 11, 1982, after the expiry of the lease on the previous date, that is June 10, 1982.
43. As regards the second contention of the KoPT regarding non-applicability of the bar envisaged under the SICA and/or the IBC, such contention is also vindicated by the prevalent legal position. Even apart from the Supreme Court having specifically held that Section 22, SICA is not a bar to proceed with eviction under the P.P. Act, in *Shree Chamundi Mopeds Ltd.* (supra) and *Gujarat Steel Tube Co. Ltd. Vs. Virchandbhai B. Shah and others* (supra), the property-in-question is not an asset of the company covered by the Rehabilitation Scheme drawn in respect of the Metal Box. Since the property belongs to the KoPT, which is an instrumentality of the Government, the West Bengal Premises Tenancy Act, 1997 is also not applicable in view of the specific bar to applicability in respect of such premises as stipulated in the said Act. The resolution schemes validated by the

BIFR, AAIFR and subsequently by the Delhi High Court operate in respect of the assets of the company only. The disputed premises being outside the purview of such definition, there cannot arise any question of the Resolution Scheme being a bar to the eviction proceeding.

- 44.** The only other argument which could be advanced in such regard is that a notice under Section 7 of the P.P. Act was directed to be issued at the end of the impugned order of the Estate Officer. However, the said direction did not create or adjudicate any present right or liability in favour of either of the parties as far as arrears of rent are concerned. Such direction can, at best, be deemed to be a nascent and inchoate seed for future proceedings for recovery of money in *lieu* of rental dues. Hence, by no stretch of imagination can it be held that either the SICA or the IBC operated as a bar to the eviction proceeding under Section 5 of the P.P. Act, from which the present revisions arise.
- 45.** Hence, there is no substance in the argument of the Metal Box that the order of the High Court dated June 1, 1988, upholding the eviction notice and permitting the KoPT to proceed with eviction by issuing a fresh notice under Section 4 of the P.P. Act, which has attained finality, did not validate the issuance of the last notice under Section 4 of the P.P. Act and consequently vitiated the eviction proceedings under Section 5 of the Act. There was no change of such

legal position when the SICA was abolished and the IBC was promulgated.

- 46.** The other question which arises for consideration is whether the KoPT can claim rent as per its own schedule of rates, in contravention of the Scheme provided under the SICA and subsequently partaking the character of an approved resolution plan under Section 31 of the IBC.
- 47.** In view of the above finding that neither the Rehabilitation Scheme nor the operation of the IBC is attracted to the eviction proceeding, the alleged binding effect of the Rehabilitation Scheme on the rental dues become academic.
- 48.** Moreover, such issue is premature, since no order has been passed under any proceeding initiated under the P.P. Act in pursuance of a notice under Section 7 of the State Act, for recovery of arrears of rent. Hence, the question regarding the primacy of the Schedule of rates framed under the Major Port Trust Act vis-à-vis the resolution scheme need not be gone into at all. In the absence of any clear indication of the rental dues under an appropriate head in the Rehabilitation Scheme, the arguments by the Metal Box in such regard have no limbs to stand on.
- 49.** Lastly, the question of violation of Natural Justice, raised by the Metal Box, does not stand on solid ground, since sufficient opportunity of hearing and representation was given to the Metal Box by the Estate Officer. The Estate Officer dealt with all limbs of the cause shown by the Metal Box and its defence, as well as the evidence produced by the

parties. There was no occasion for inviting oral evidence and/or cross-examination in the absence of any such prayer having been made by the Metal Box, which submitted to the jurisdiction of the Estate Officer and preferred an appeal under Section 9 of the P.P. Act itself, thereby waiving their right, to turn back and take the stand that the proceeding was vitiated; more so, since such a proceeding under Section 5 of the P.P. Act is of a summary nature.

50. The judgments of *Canara Bank Vs. V.K. Awasthy*, reported in (2005) 6 SCC 321 and *Rinku Kundu Vs. The State of West Bengal & Ors.*, reported in (2005) SCC Online Cal 18, regarding the absence of opportunity of cross-examination on copies of documents amounting to violation of Natural Justice, are not relevant at all in the present context, since such question was never raised at any point of time before the Estate Officer on behalf of the Metal Box.
51. As regards the arguments that the stay petition was heard but the impugned order of the Estate Officer decided the main eviction proceeding, the hearing of the eviction proceeding itself, in fact, was initiated much prior to the date of the impugned order of the Estate Officer and was continuing, when the Metal Box took out the application for stay, evidently as a ploy to protract the litigation. The order of the Estate Officer deals in detail with the submissions and contentions of both the parties as well as adverts to all the materials on record, which obviates any presumption of violation of Natural Justice.

- 52.** As regards (2000) 8 SCC 532 [*State Bank of India VS. Chandra Govindji (KM.)*], the ratio laid down therein is not applicable, since the hearing of the eviction proceeding was commenced much earlier and not merely on the date of adjudication. Section 8 of the P.P. Act and Rule 5 of the Rules do not come into operation at all, since an eviction proceeding under Section 5 of P.P. Act is a summary procedure and there is no specific requirement of law to follow the exact procedure as laid down in the Code of Civil Procedure. In the absence of any oral evidence having been adduced by either of the parties and in the absence of any prayer being made for adduction of evidence on behalf of either of the parties, the allegation of violation of Natural Justice is rendered merely an afterthought on the part of the Metal Box and cannot be said to have vitiated the adjudication by the Estate Officer in any manner.
- 53.** In such view of the matter, the order of the Estate Officer was perfectly justified, both in law and on point of jurisdiction and, as such, the appellate court acted patently without jurisdiction in reversing the same on irrelevant considerations.
- 54.** Accordingly, CO No.1411 of 2021 is dismissed on contest. CO No.746 of 2020, on the other hand, is allowed on contest, thereby setting aside the impugned judgment and order dated January 14, 2020 passed by the Additional District Judge, Sixth Court at Alipore, District: South 24 Parganas in P.P. Appeal No. 7 of 2010. The order of the Estate Officer granting eviction under Section 5 of the P.P. Act,

1971, which was impugned in the said appeal, hereby stands revived.
The KoPT is at liberty to execute such order of eviction in accordance with due process of law.

- 55.** The applications being CAN 1 of 2020 (CAN 2412 of 2020), CAN 2 of 2020 (CAN 4914 of 2020) and CAN 3 of 2020 (CAN 4915 of 2020) are disposed of accordingly.
- 56.** There will be no order as to costs.
- 57.** Urgent certified copies of this order shall be supplied to the parties applying for the same, upon due compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)