

18-06-2021

ct no. 13

Sl.43

pk/akd

**WPA 10633 of 2021
(Through Video Conference)**

**Mritunjay Kumar Pandey
Versus
State of West Bengal and others**

Mr. Phiroze Edulji,
Mr. A. K. Upadhyay
... for the petitioner.

Mr. Anirban Roy,
Mrs. Sucharita Paul
... for the State respondent.

Mr. Shaunak Mitra,
Mr. P. K. Jhunjhunwala
... for the respondent nos. 5 and 7.

The jurisdiction of this Court under Article 226 of the Constitution of India is invoked by the petitioner who claims to be a tenant of a premises at No. 24 Park Street, Kolkata. The said property was originally owned by one Network Industries Limited which is a corporate debtor under Section 60(5) in C. P. No. 70/KB/2018 of the IBC of 2016 (the said IBC proceedings). The petitioner claims to be a tenant of about 2500 sq. ft. on the said premises at No. 24 Park Street.

The said IBC proceedings were initiated sometime in the year 2018 before the Company Law Tribunal Kolkata Bench. Resolution professionals were appointed and a report was

submitted that was accepted by order dated 12.05.2021. By reason of the said order the purchaser of the said assets M/s. Gloster Limited being respondent no. 7 herein, went on to take possession of the said premises.

Counsel for the petitioner would argue that he had applied for intervention in the aforesaid IBC proceedings in May 2021. He would therefore, submit that his client ought to have been heard before the order allowing the resolution professionals and the purchaser to break open the lock and take physical possession of the property-in-question. It is further submitted that T. S. 902 of 2020 was filed by the writ petitioner in the City Civil Court at Calcutta against one Madan Gopal Jha, former Director of Network Industries Limited, the Corporate debtor.

Jurisdiction of this Court is invoked against the order of the Tribunal dated 12/05.2021 primarily on the ground that he was condemned unheard. It is now well settled that jurisdiction under Article 226 can be invoked, notwithstanding availability of alternative remedy, inter alia, if there is violation of the principles of natural justice.

This Court notes that the petitioner was at all material times aware of the aforesaid

proceedings in C. P. No. 70/KB/2018. It was in his interest that he should have intervened and appeared at all stages to protect any lawful interest he may have in respect of any assets of the corporate debtor. Not having done so, the petitioner cannot complain that he was not heard by the Tribunal. He was neither a necessary nor a proper party to the main IBC proceedings.

This Court, therefore, does not see any violation of the principles of natural justice. Hence this Court is not inclined to intervene under Article 226 of the Constitution of India with the order dated 12.05.2021 in the said IBC proceedings.

It is however made clear that the petitioner's normal remedy of appeal or recall of the impugned order, if otherwise available, shall not be affected by reason of rejection of the instant writ petition.

With the aforesaid directions, the writ petition is disposed of.

There will be no order as to costs.

All parties are directed to act on a server copy of this order on usual undertaking.

(Rajasekhar Mantha, J.)

