

5-8      02.12.2021  
Ct. No.21  
A.B.

**C.O. 1967 of 2021**

**Estate Achki Devi and Subhas Chandra Agarwal**

**-VS-**

**Syama Prasad Mookerjee Port, Kol.**

**With**

**C.O. 1691 of 2021**

**Estate Achki Devi and Sri Subhas Chandra Agarwal**

**-VS-**

**Syama Prasad Mookerjee Port, Kol.**

**With**

**C.O. 1692 of 2021**

**Estate Achki Devi and Sri Subhas Chandra Agarwal**

**-VS-**

**Syama Prasad Mookerjee Port, Kol.**

**With**

**C.O. 1949 of 2021**

**Estate Achki Devi and Sri Subhas Chandra Agarwal**

**-VS-**

**Syama Prasad Mookerjee Port, Kol.**

**(Through Video Conference)**

Mr. Arijit Banerjee,  
Mr. Vivakanda Bose,  
Ms. Deblina Chattaraj,

...for the Petitioners.

Mr. Pranit Bag,  
Mr. Snehasis Sen,  
Mr. Avisek Banerjee,

...for the Opposite Party.

This common order dispose of all the above numbered C.O.s as in all the above C.O.s parties are same and subject matter is also same and has challenged orders passed by Estate Officer in same proceeding no. 1628 / D of 2018 under Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (the Act).

However, I find in C.O. No. 1691 of 2021 and C.O. No. 1692 of 2021, the petitioners have prayed for passing necessary direction on the Estate Officer for early disposal of stay applications filed by them in the said proceeding no. 1628 / D of 2018 under Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

While in C.O. No. 1949 of 2021 and C.O. No. 1967 of 2021, the petitioners have prayed for setting aside the orders dated 04.10.2021 and 25.10.2021 passed by the Estate Officer in proceeding no. 1628 / D of 2018 under the Act.

Perused the orders dated 04.10.2021 and 25.10.2021 under challenge, but I do not find any cause or issue affecting the rights of the petitioner being decided vide those two impugned orders. In fact the learned Estate Officer has been pleased to fix 18.10.2021 for production of documents by the petitioners, for evidence and for hearing on virtual platform. That vide order dated 25.10.2021, the

Estate Officer has directed its department to provide a copy of the application dated 18.08.2011 and directed the petitioners to collect the same from the office and to file reply to the show cause notice dated 21.12.2020 and thereby fixed the case for hearing with production of document on 21.11.2021.

Therefore, I do not find the above orders to be illegal with material irregularities and passed without jurisdiction demanding interference by this court either under section 115 of the Code of Civil Procedure Code, 1908 or under Article 227 of the Constitution.

However, at the time of hearing learned advocate for the opposite party submits that this court has no jurisdiction to hear the matter relating to any order passed by the Estate Officer under “the Act”. The remedy available to the petitioners is to prefer an appeal under section 9 of the Act, before the appellate authority provided in the Act.

On the other hand learned advocate for the petitioners submits against the illegal interlocutory order passed by the Estate Officer, the only remedy available to the petitioners is to move this court under Article 227 of the Constitution.

This court has already held orders impugned do not appear to be illegal or passed without jurisdiction or with material irregularities and do not call for

intervention by this Court under Article 227 of the Constitution. Therefore this court hold C.O. No. 1949 of 2021 and C.O. No. 1967 of 2021 are not maintainable and dismissed. Interim order/orders, if any, stands/stand vacated.

Now, let me consider C.O. No. 1691 of 2021 and C.O. No. 1692 of 2021. By filling the above revisional applications the petitioners have prayed that Estate Officer may be directed to dispose of the stay application filed by them in the proceeding no. 1628 / D of 2018 under Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (the Act).

Learned advocate for the opposite party raises no objection against such prayers of the petitioners. Since the petitioners have prayed for expeditious disposal of their pending application for stay, this Court is of view if such prayer is allowed interest of the opposite party is not likely to be affected or prejudiced. Therefore the Estate Officer of Kolkata Port Trust is hereby directed to dispose of the application of stay filed by the petitioners in proceeding no. 1628 / D of 2018 under Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (the Act) and pending before it at the earliest and in any event within a period of one month from the date of receipt of the copy of this order.

**The department is directed to send a copy of this order to the Ld. Estate Officer, Kolkata Port Trust immediately.**

Accordingly C.O. No. 1691 of 2020 and C.O. No. 1692 of 2020 are disposed of. Interim orders, if any, stand vacated.

In view of the disposal of the above revisional applications connected applications, if any are also disposed of.

There will be no order as to costs.

All parties shall act in terms of the copy of the order downloaded from the official website of this Court.

**(Kesang Doma Bhutia, J.)**