

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/245/2017
IA No. GA/1/2019(Old No. GA/878/2019)

MINERAL GRINDING INDUSTRIES & ANR.
Versus
THE BOARD OF TRUSTEES FOR THE PORT OF KOLKATA & ORS.

BEFORE:

The Hon'ble JUSTICE RAVI KRISHAN KAPUR

Date : 3rd February, 2021.

Appearance :
Mr. Siddhartha Banerjee, Adv.
... for the petitioner.

Mr. Saptangsu Basu, Sr., Adv.
Mr. Somnath Bose, Adv.
... for the KoPT.

The Court: This is a meritless petition. There is not even an iota of an enforceable legal right which the petitioner has been able to demonstrate to warrant any order being passed in its favour.

The case of the petitioner is that the petitioner was granted a lease of a piece of land of approximately 1327.77 sq. mtrs. of land situated at Cossipore at a monthly rent of approximately of Rs.5,000/- from the respondent Kolkata Port Trust. The lease expired as far back as in 1992. The petitioner continued to be in possession and it is alleged on behalf of

the petitioner that a renewal of the lease was also granted to the petitioner by the Kolkata Port Trust. Subsequently, the renewal period also expired. Thereafter, it is submitted on behalf of the petitioner that he wanted to return possession of the premises but the Kolkata Port Trust refused to take possession of the same from the petitioner. It is an admitted position that that possession of the subject property was ultimately taken by the Kolkata Port Trust on 28th December, 2016. Subsequent to the filing of this writ petition, the respondent authorities had initiated proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. It is an admitted position that the proceedings have been concluded and the final decision of the Estate Officer has also been delivered.

I have heard the parties. Mr. Banerjee appearing on behalf of the petitioner has argued that the impugned actions of the Kolkata Port Trust is without any authority of law. He has submitted that the petitioner was ready and willing to deliver possession of the premises in question but the Kolkata Port Trust refused to take possession from the petitioner. The main prayer in the writ petition is for cancellation of bills and letters raised by the Kolkata Port Trust claiming the outstanding dues in respect of the subject premises. He submits that since the petitioner was not utilizing the property and wanted to give up

possession of the same, the Kolkata Port Trust ought to be restrained from taking any steps for enforcement of its dues from the petitioner.

Mr. Basu on behalf of the Kolkata Port Trust submits, that in view of the subsequent events and more particularly in view of the initiation of the proceedings under the Public Premises Act and a final award having been passed, there is no scope of passing any order in favour of the petitioner. He submits that the petitioner has approached this Court with unclean hands and there is no equity in favour of the petitioner. He submits that the entire story of the petitioner wanting to give up possession of the premises is pure myth. He further submits that the Kolkata Port Trust is at liberty to take all steps for recovery of their dues in respect of the premises from the petitioner in accordance with law.

I have considered the pleadings filed on behalf of the parties and the submissions made on their behalf.

At the outset, I find no bonafides in the case of the petitioner that the petitioner was wanting to give up possession of the premises and it was the KoPT, which did not want to take possession of the premises from the petitioner. The entire story of the petitioner wanting to give up possession of the subject premises is blatant falsehood. Moreover, in view of the subsequent events which have transpired and particularly in view of the proceedings which the Kolkata Port Trust have initiated under the Public Premises Act, there is no scope of passing any order in favour

of this petitioner. The Kolkata Port Trust is at liberty to act in accordance with law and take the proceedings initiated by them to their logical conclusion.

WPO/245/2017 stands dismissed. Costs are assessed at Rs.50,000/- to be paid by the petitioner company to the Kolkata Port Trust.

In view of the dismissal of the application, nothing survives in the interlocutory application being GA/878/2019 which is also dismissed as infructuous.

(RAVI KRISHAN KAPUR, J.)

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