

ORDER SHEET

WPO 366 of 2021
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

SMT DULALI MAJHAN @ MAJHAN
VERSUS
M/S. EASTERN COAL FIELDS LTD. AND ORS.

BEFORE:

The Hon'ble JUSTICE ARINDAM MUKHERJEE

Date: 7th September, 2021.

(Via Video Conference)

Appearance:
Mr. Partha Ghosh, Adv.
Mr. Amal Kumar Datta, Adv.

Mr. Bijoy Kumar, Adv.

The Court: The respondents have raised a preliminary point of objection in entertaining the writ petition in the Original Side of this Court by citing Rule 4 of the Rules of the High Court at Calcutta relating to applications under Article 226 of the Constitution of India. The respondents say that to file and maintain a writ petition in the Original Side of this Court, all the respondents shall either have to reside or carry on business or have their offices situate within the Ordinary Original Civil Jurisdiction of this Court, unlike a Civil Suit which can be filed after obtaining leave under Clause 12 of Letters Patent, 1865 if any part cause of action has arisen within the Ordinary Original Civil Jurisdiction of this Court.

Assuming without admitting that the respondent no.1 has an office at 13 R.N. Mukherjee Road Kolkata 700001, and a part cause of action has arisen within the Ordinary Original Civil Jurisdiction of this Court then also all the respondents do not have their offices within the Ordinary Original Civil Jurisdiction of this Court which is necessary to file and maintain a writ petition in the Original Side of this Court. In that view of the matter the writ petition according to the respondents has to be filed in the Appellate Side.

The writ petitioner has disputed this contention of the respondent no.1 by saying that the office of the respondent no.1 at 13 R.N. Mukherjee Road Kolkata 700001 is still operational for which the writ petition can be filed, received and heard in the Original Side of this Court. Moreover, part cause of action according to the petitioner has arisen within the Ordinary Original Civil Jurisdiction of this Court. The petitioner also refers to several judgments to show that writ petition has been entertained against the respondent no.1 in the Original Side. There are however several judgments holding that the writ petition wherein all the respondents do not have their respective offices of their business within the Ordinary Original Civil Jurisdiction of this Court has to be filed in the Appellate Side. Without going into the technicalities as to whether part cause of action has arisen within the Ordinary Original Civil Jurisdiction of this Court or that by virtue of the office of the respondent no.1 being situate at 13 R.N. Mukherjee Road Kolkata 700001 which will linger the hearing of the writ petition and may cause detriment to the interest of the petitioner due to delay, I think justice will be sub-served if I direct this writ petition to be converted into a writ petition filed

in the Appellate Side of this Court by assigning a writ petition number in the Appellate Side.

The writ petition is therefore sent back to the Registry/department to make necessary endorsement/recording to treat this writ petition to have been filed in the Appellate Side on the date when it has been filed in the Original Side and assign a number to the writ petition for being treated as a Writ Petition filed in the Appellate Side on that date. The entire exercise has to be completed by the Registry/department within 17th September, 2021.

Let this matter appear in the Appellate Side list of the Bench taking up Group VI matters as a motion on 20th September, 2021.

(ARINDAM MUKHERJEE, J.)

sp/ b. pal