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jdt.

02.03.2022
jb.

W.P.A. 3247 of 2022

Avtec Limited

vs.

West Bengal Industrial Infrastructure Development Corporation & Anr.

**Mr. Mainak Basu
Mr. Rajarshi Dutta
Mr. Ajay Bhargava
Mr. A. Kr. Ray
Mr. Trideb Bose
Ms. Sweta Kabra
Mr. Debjyoti Saha
Ms. Amita Bhargava**

... For the Petitioner

**Mr. Amit Kr. Nag
Mr. Abhishek Nag**

... For the Respondents

The notice of termination issued by the respondents on 20th January, 2022 to the petitioner is under challenge in the writ petition. The facts are not in dispute. The writ petitioner was granted lease of the property in question on 4th August, 2008 for setting up an industrial unit for manufacturing of automobile components and the said unit was accordingly set up by the petitioner and was operational till 2012. With the closure of the Tata Project in 2012,

the industry of the petitioner came to a halt and the petitioner explored the viability of starting other manufacturing units in the said land. By a letter dated 9/12th November, 2021 the respondents invited the petitioner to submit documents relating to new project proposal, a detailed project report for commencement of commercial production within the subject land and an undertaking to utilise the land within a stipulated time frame. In reply to the said letter the petitioner, by a letter dated 17th December, 2021 requested the Authority to provide time till 31st March, 2022 for proposing the details of the project. The notice of termination was issued on 20th January, 2022.

Learned counsel appearing for the petitioner submits that even in case of breach of terms of the lease by the petitioner, the respondents are required to evict the petitioner from the demised land only in due course of law and re-entry of the respondents in the said land and taking possession of the same by dismantling the construction therein are not enjoined in law.

Learned counsel for the respondents draws the attention of the Court to the terms of the deed of lease as well as the agreement for lease which demonstrate that the petitioner was required to utilise the demised land only for setting up industrial unit for manufacturing of automobile components and such exercise was to be completed within a period of three years from the date of issuance of the lease. It is not in dispute that such manufacturing unit was started by the petitioner within the stipulated time frame and had to be closed down only in 2012. Placing reliance on clause 11 of the deed of lease, learned counsel submits that the lessee was bound to deliver vacant possession of the demised land upon termination of the lease within 30 days of issuance of the termination notice, failing which the lessor would be at liberty to deal with the demised land together with all structures sheds, etc. as full owner thereof.

Clause 11 of the deed of lease is not disputed. The said covenant undoubtedly entitles the lessor to re-enter into the property and take possession of the same upon termination of lease deed. But at the same

time, such act is required to be done by taking recourse to law and not otherwise. It is trite law that a lessee or for that matter, any person in occupation of a premises can be evicted therefrom only in due course of law. It is not denied by learned counsel for the respondents that such act can be undertaken by the Authority in accordance with law and not otherwise.

The portion of the notice dated 20th January, 2022 which is under challenge is reproduced:-

"... ..
failing which the Corporation shall exercise its right of re-entry and take possession of the land including the boundary wall standing thereon as full owner thereof and all & everything therein, without any liability, pecuniary or otherwise, and without prejudice to any other rights of the Corporation."

In view of the above, the portion of the notice impugned as stated above is set aside/quashed.

The respondents are at liberty to act in terms of the deed of lease as well as the notice of termination in accordance with law.

W.P.A. 3247 of 2022 is thus disposed of.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)