

04
04.03.2022
TN

WPA No.3760 of 2022

Indian Jute Industries Research Association
and another

Vs.

Union of India and others

(Via Video Conference)

Mr. Kishore Dutta,
Mr. Debjit Mukherjee,
Mr. Megnajib Mukherjee,
Ms. Shivangi Thard,
Mr. Vidhya Upadhyay

.... for the petitioners

Mr. Nilanjan Bhattacharya

.... for the Union of India

Mr. Subhankar Nag,
Mr. Snehashis Sen

.... for the respondent nos.2, 3 & 4

Mr. Amitesh Banerjee,
Mr. Suddhadev Adak

.... for the State-respondent

The grievance of the writ petitioners is that, despite the pendency of the resolution process pursuant to the resolution mechanism provided for resolving such disputes in-between Central Government entities, the KoPT has issued an eviction order under Section 5 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter

referred to as “the 1971 Act”). Thereafter, it is argued, the KoPT is seeking to implement such eviction order immediately with the help of the police authorities.

The writ petitioners, being aggrieved by the order of eviction, have already preferred an appeal, which is now pending. In connection with the said appeal, a stay application was moved. However, the same was adjourned by the appellate authority till March 10, 2022 in view of the Kolkata Port Trust having sought leave to file a written objection to the stay application.

Learned counsel appearing for the Union of India submits that the resolution initiated between the respondent no.2 and the petitioners has already failed.

Learned counsel appearing for the Kolkata Port Trust vehemently opposes the prayer of the writ petitioners and challenges the same on the ground of maintainability. It is submitted that, in view of a regular appeal pending before the appellate authority under the purview of Section 9 of the 1971 Act, there is no scope for the petitioners moving the writ court to seek any interim order in the interregnum.

More so, in view of the failure of the resolution in the meantime, which is allegedly within the knowledge of the writ petitioners, the ground on which the writ petitioners are seeking the Kolkata Port Trust

to stay their hands in respect of eviction of the petitioners has lost its validity.

Upon hearing learned counsel appearing for the parties, what is evident is that the writ petitioners have already preferred an appeal before the appropriate appellate authority as provided in Section 9 of 1971 Act. Not only that, the petitioners have also taken out an application for stay of operation of the eviction order passed against the petitioners by the Estate Officer of the Kolkata Port Trust. Since the matter has been adjourned till March 10, 2022 primarily on the ground of giving an opportunity to the Kolkata Port Trust to file a written objection to the stay application, virtually without going into the merits of the respective cases of the parties even *prima facie*, it would be appropriate for the ends of justice if the Kolkata Port Trust stays its hands prior to the stay application being decided by the appellate authority.

Hence, WPA No.3760 of 2022 is disposed of by directing the appellate authority to positively dispose of the stay application filed by the writ petitioners in connection with the PP Appeal No.4 of 2013, pending before the learned Additional District Judge, Seventh Court at Alipore on the next returnable date, that is, March 10, 2022 or, at the most by March 11, 2022, if

necessary by taking up the stay application on successive dates for hearing.

The Kolkata Port Trust shall positively file a written objection to the stay application filed by the writ petitioners in connection with the appeal by March 9, 2022, with an advance copy to the writ petitioners, directly or through their learned Advocates appearing before the appellate court. The Kolkata Port Trust, that is, respondent no.2 as well as the respondent nos.3 and 4 shall desist from implementing the eviction order passed under Section 5 of the 1971 Act against the writ petitioners till March 15, 2022 or till disposal of the stay application, whichever is earlier, of course, subject to the order passed by the appellate authority on the application for stay.

It is categorically clarified that this court has not gone into the merits of the respective contentions of the parties in the appeal and/or in connection with the pending stay application in any manner whatsoever and all questions between the parties shall be kept open for being decided by the appellate authority, *prima facie* as well as finally, in accordance with law without being prejudiced in any manner by any of the observations made herein.

The parties as well as the appellate authority shall act on the written communication of the learned Advocates appearing for the parties, coupled with server copies of the order, without insisting upon prior production of a certified copy of the same.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)