

15.09.2022
Court No.13
Item No.39
pk

WPA 5614 of 2022

Devesh Daga
Vs.
The State of West Bengal and others

Mr. Shashwat Nayak,
Mr. Anirudhya Dutta
...for the petitioner.

Mr. Anujit Mookherji,
Ms. Rinky Kumari Shaw
... for the respondent no. 5.

Ms. Amrita Panja Moulik
... for the State.

The private respondent no. 6 being M/s GTL Infrastructure Ltd. appears to have left and therefore service could not be effected at the address known to the petitioner.

Counsel for the private respondent no. 5 confirms the address of M/s GTL in the cause title to which service was effected.

The brief facts of the case are that the petitioner and the private respondents are living adjacent to each other in a four storeyed building. The non-appearing respondent being M/s GTL Infrastructure Ltd. has installed a mobile tower on the rooftop of the respondent no. 5. Disputes and differences on the rent payable for such mobile tower have cropped up with the 5th respondent. The 5th respondent is not receiving any rent. The petitioner complains that the mobile tower is in a dilapidated

condition and there has been an incident where portions of the tower have fallen on the rooftop of the petitioner's house. Likelihood of serious injury to person and property as a consequence of poorly maintained mobile tower breaking up, are imminent.

The private respondents ought to have taken steps to have the mobile tower removed since it is admittedly causing nuisance and is in a dilapidated condition and languishing without repairs or maintenance. It is submitted that the employees of the M/s GTL Infrastructure Ltd. are preventing removal of the mobile tower with the expectation of recovery of their salaries and dues from such company.

The 5th respondent indeed should have taken steps to effect such removal, in an appropriate civil proceeding, which has not been done. However, given the fact that the existence of the mobile tower is likely to cause danger to property and life given its dilapidated condition and being without maintenance, the 5th respondent shall be entitled to remove it.

The O. C., Rabindra Sarobar Police Station shall render all assistance in course of such removal. However, the liabilities and/or claims between the private respondent no. 5 and the M/s GTL Infrastructure Ltd. are left open to be dealt with in an appropriate forum. Likewise the claims of the

employees of M/s GTL Infrastructure Ltd. are also left open to be agitated in accordance with law.

The writ petition is disposed of.

There will be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)