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13-04-2022
debajyoti
(Ct. no.06)

FMA 2755 of 2013
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IA NO:CAN/2/2013 (Old No:CAN/2957/2013)

The Board of Trustees for the port of Calcutta
Vs.
Sangeet Agarwal & Ors.

Mr. Abhrajit Mitra, Sr. Adv.,
Mr. Ashok Kumar Jena
... For the Appellant.

Even in the second call, nobody appears for the writ petitioner/respondent. The appeal and the application are taken up together for hearing.

The subject matter of challenge in this appeal is an interim order dated December 07, 2012 passed by the learned Single Judge in W.P. No.25093(W) of 2012.

The writ petitioner had approached the learned Single Judge with the case that one M/s. Ship Repairers Ltd. to which Kolkata Port Trust (KPT) had leased out about 4000 sq. ft. of land, had sub-leased 93 sq. metres in favour of the writ petitioner with effect from June 17, 2011. The writ petitioner has been using the space as a godown. Proceedings were initiated against Ship Repairers Ltd. under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, which culminated in an order of eviction passed by the Estate Officer. The godown of the writ petitioner was sealed by KPT on May 06, 2012. The writ petitioner prayed for an order directing KPT to unseal the godown and allow him to remove his goods stored in the godown.

The learned Single Judge, as an interim measure, directed that if the writ petitioner pays an amount as per the calculation made on the basis of KPT's schedule of rent, KPT shall allow the writ petitioner to remove his goods from the godown. Being aggrieved, KPT is in appeal before us.

When the appeal was admitted, by an order dated June 10, 2014, operation of the impugned order had been stayed.

Learned advocate for the appellant has placed before us a judgment of the Hon'ble Apex Court passed in Civil Appeal No.3910 of 2013 (Board of Trustees for the Port of Kolkata & Ors. Vs. APL (India) Pvt. Ltd. & Ors.). In paragraph 24 of the judgment, the Hon'ble Supreme Court has clearly held that Section 6 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 applies *inter alia* to persons who keep their goods in the public premises whether they are tenants or licensees or sub-tenants or any other parties. The Estate Officer under Section 6 of the 1971 Act, is entitled to sell the goods even of a stranger, found on the premises under unauthorized occupation.

There is no dispute that in the present case, in exercise of power under Section 6, KPT had sealed the godown in question. In view of the aforesaid judgment of the Hon'ble Supreme Court, we have to hold that KPT acted well within its powers and authority. KPT is entitled to sell goods found on premises under unauthorized occupation as has been clarified by the Hon'ble Appeal Court, irrespective of to whom the goods belong.

In view of the aforesaid, the order under appeal cannot be sustained and is set aside. This appeal is allowed.

In view of this order, nothing survives in the writ petition. The writ petition being W.P. No.25093(W) of 2012 is disposed of along with this appeal and the connected application.

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

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance with all the necessary formalities.

(Krishna Rao, J.)

(Arijit Banerjee, J.)