

21.02.2022
(S/L-13)
Ct.-18
(Susanta)

(Via Video Conference)

C.O. 1933 of 2019

The West Bengal Transport Corporation & ors.
-Vs-

M/s. Cottage Industry & anr.

Mr. Niladri Bhattacharjee,
Mr. Soham Bandyopadhyay,
Mr. Aditya Chaturvedi,
.... For the Petitioners.

Mr. Souradipta Banerjee,
Mr. Arnab Roy,
Ms. Fatima Hassan
... For the Opposite Parties.

The revisional application under Article 227 of the Constitution of India is at the instance of the defendants in a suit for declaration and is directed against order no. 59 dated April 10, 2019 passed by the 10th Bench, City Civil Court, Calcutta in the said suit being Title Suit No. 409 of 2014.

The opposite party No. 1, the West Bengal Transport Corporation formerly known as the Calcutta Tramways Company (1978) Limited in the year 2012 floated a tender inviting offers from the interested persons to take an area about 1643 Sq. ft. within Shyambazar Tram Depot, Premises no. 129/4A, Bidhan Sarani, Police Station- Shyampukur, Kolkata-700004 on rent.

The opposite party no.1 participated in the said tender and was found eligible, in pursuance

whereof the petitioners by a letter dated August 8, 2013 informed the opposite party no.1 that the Calcutta Tramways agreed to let out a space measuring about 1800 sq.ft. area within Shyambazar Tram Terminus for running shop of garments at a rent of Rs.15/- per sq.ft. per month for a period on & from 01.09.2013 to 30.11.2013.

In the said letter it was further mentioned that the detailed terms and conditions along with the agreement would be executed/issued to the opposite party no.1 shortly.

The opposite parties in the suit are complaining that no such agreement was executed although pursuant to the said letter they were put into possession of 1800 sq.ft. area within the said Tram Terminus.

The opposite parties in the suit, inter alia, has prayed for a declaration that the defendants are bound to execute proper agreement in favour of the plaintiffs in due compliance of the said letter.

The prayer of the opposite parties for an order of injunction in the suit was allowed by the learned Trial Judge vide order dated July 12, 2017 whereby the parties were directed to maintain 'status quo'.

The opposite parties filed an application under Section 151 of the Code of Civil Procedure praying implementation of the said order of 'status quo' through police help alleging that the petitioners are causing disturbance in free ingress and egress of the opposite parties in the suit property by closing the southern gate of the said tram depot.

The learned Trial Judge by the order impugned has allowed the said application.

The petitioners are contesting the suit with a counter-claim for a decree of recovery of possession of the suit property.

The southern gate is the exit gate for the trams from the said depot, if the said gate is kept open for all time, the safety and security of the trams stationed in the said depot would be heavily compromised.

That apart, an order of injunction in the form of 'status quo' without indicating what the 'status quo' is, is a nullity. Grant of police help for implementation of such an order is legally indefensible, therefore, not sustainable at all.

The order impugned, for the reasons discussed above is set aside.

This Court has a serious doubt about the maintainability of the suit.

Learned Counsel for the parties inform this Court that an application under Order VII Rule 11 of the Code is pending disposal before the learned Trial Judge.

The learned Trial Judge is requested to dispose of the said application first, leaving aside the other pending applications. The exercise in this regard must be completed by the learned Trial Judge within two effective available working months of the said Court from the date of communication of this order and in doing so, shall not entertain the prayer of the parties for any unnecessary adjournment.

C.O. 1933 of 2019 is thus allowed with the above terms without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)