

05.04.2022
Item No.70
Ct. No.13
CHC

W.P.A.18852 of 2021

**Titagarh Wagons Limited & another.
Vs.
Union of India, represented by the Principal
Secretary, Ministry of Railways & ors.**

Mr. Jishnu Saha, Sr. Advocate
Mr. Sayantan Bose,
Ms. Madhurima Dan
...for the petitioners

Mr. Sanajit Kumar Ghosh,
Mr. Madhusudhan Mukhopadhyay
...for the Railways

The writ petitioners are aggrieved by a demand raised by the railways for use of a railway siding. There are two categories of such siding - one is assisted siding and the other is a private siding. A demand for about Rs.8,58,30,920/- has been raised on the petitioner by the railways.

Mr. Saha, learned Senior Counsel for the petitioners, argues that the petitioner has been using the siding for a substantial period of time since 1994, and has been paying maintenance charges and interest. The impugned demand is based on a new policy decision which is not binding on his client.

It is also submitted that the petitioners are willing to enter into a written agreement of contract with the railway for the aforesaid siding.

Learned counsel for the railways states that there has been a contract between the parties in respect of the sidings, which also contains an Arbitration Clause.

This Court is of the view that the matter falls in the realm of private contract between the railways and the petitioners. The demand raised by the railways cannot be gone into or decided by the Court since it involves disputed questions of fact requiring a trial by evidence.

For inter alia the reasons stated hereinabove, the writ petition cannot be entertained. Reserving the right of the petitioners to approach civil or other forum, the writ petition is disposed of without any orders.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of all formalities, on priority basis.

(Rajasekhar Mantha, J.)