

6 18.08.2022

gd/ssd

MAT/1314/2022
IA NO: CAN/1/2022
TIRUPATI COLD STORAGE PRIVATE
LIMITED AND ORS.
VS
THE STATE OF WEST BENGAL AND ORS.

Mr. Anjan Bhattacharya,
Ms. Anita Shaw
..for the Appellants.

Mr. Anirban Ray,
Mr. Lalitmohan Mahata,
Mr. Supratim Dhar,
Mr. Piyush Agarwal,
Ms. Shrivalli Kajaria
..for the State.

Ms. Sucharita Paul
..for the Respondent No.6.

This intra court appeal is at the instance of the writ petitioners against the interlocutory order of the learned Single Judge dated 12.08.2022 in WPA 12441 of 2022.

The writ petition was filed by the appellants aggrieved with the order of the Director of Agricultural Marketing, West Bengal directing for payment of compensation in terms of Section 24 of West Bengal Cold Storage (Licensing and Regulation) Act, 1966 to 3663 farmers who had stored the potatoes in the cold storage of the appellants and had suffered the loss.

Learned Single Judge considering the circumstances of the case by the order under appeal

has directed the appellants to make payment of Rs.3 crores to the respondent no.2 i.e. District Magistrate, Purba Burdwan within a period of one week from the date of the order and has directed the respondent no.2 herein to disburse the proportionate amount amongst the 3663 farmers within a period of fortnight.

Submission of learned counsel for the appellants is that a sum of Rs.3 crores is not available with the appellants and the appellants can only pay Rs.2 crores within the time granted by the learned Single Judge and for another Rs.1 crore the time may be extended. He has further submitted that the Insurance Company has not disbursed the amount insured.

Learned counsel for the State has opposed the appeal by submitting that the claim is of much more than Rs.10 crores and that after the order of the Director dated 20th June, 2022 almost two months have passed and no amount has been received by the farmers till now. He has submitted that the appellants have the liability under Section 24 of the Act to pay the amount irrespective of the receipt of amount from the Insurance Company.

Learned counsel for the Insurance Company has also submitted that appellant is having a reimbursement policy and the survey is in progress and on receipt of the survey report and in terms of the said

survey report, the Insurance Company will immediately disburse the amount to the appellants subject to any challenge to the survey report by the appellants.

Having heard the learned counsel for the parties and on perusal of the record, we find that in the facts of the case and considering the right and plight of the 3663 farmers, the learned Single Judge has rightly passed the order under challenge by directing the appellants to make payment of Rs.3 crores.

Since as per the submission of learned counsel for the appellants Rs.2 crores is available therefore appellants are permitted to deposit that amount in terms of the order of the learned Single Judge before the respondent no.2 i.e. District Magistrate, Purba Burdwan within a stipulated time. So far as the plea of the appellants for extension of time for another Rs.1 crore is concerned, we find that the writ petition is pending, therefore, if the appellants want any modification in the order of the learned Single Judge, then the proper remedy available is to approach the learned Single Judge by filing an appropriate application.

Hence, we dispose of this appeal without interfering with the order of the learned Single Judge but granting liberty to the appellants to file an appropriate application before the learned Single Judge.

We make it clear that this order will not be construed to restrict right of the State to take appropriate action in term of the statutory provision.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)

qq