

12th May,
2022
(AK)
07-08

W.P.A 6114 of 2022

Hopes Metal Industries (India) Limited
Vs.
The Board of Trustees of Shyama Prasad Mukherjee Port
Kolkata and another

With

W.P.A 18572 of 2019

Hopes Metal Industries (India) Limited
Vs.
The Board of Trustees for the Port of Kolkata and
another

Mr. Samit Talukdar
Mr. Antony Patrick Gomes
Ms. Akriti Jain

...for the petitioner
in both the matters.

Mr. Abhrajit Mitra
Mr. Snehashis Sen
Mr. Abhishek Banerjee
Ms. Aishwarya Chatterjee
Mr. Biswaroop Paine

...for the respondents
in WPA 6114 of 2022.

Mr. Probal Mukherjee
Mr. Ashok Kumar Jena

...for the respondents
in WPA 18572 of 2019.

At the outset, it is submitted by learned senior counsel appearing for the petitioner that although it was recorded in the impugned order of eviction of the petitioner from a property owned by the respondent no.1- Port Trust that both sides were heard, in reality no such hearing was given to the petitioner.

Learned senior counsel appearing for the respondent no.1 in both the matters contend that the appeal, if any, which could have been preferred against the eviction order under Section 9 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 is time barred by about two and a half years.

It is further contended that the writ petitioner has preferred the instant challenge only after attempts at execution were initiated by the Port Trust.

Learned senior counsel appearing for the Port further contends that huge amounts are due in lieu of arrear rent for the premise, which is disputed by learned senior counsel appearing for the petitioner.

Be that as it may, it transpires from the submissions of learned counsel that the impugned order is appealable under Section 9 of the 1971 Act, subject to the limitation as stipulated in law.

Hence, WPA 6114 of 2022 and WPA 18572 of 2019 are disposed of with liberty to the petitioner to prefer appeals against the eviction orders passed against the petitioner by the Estate Officer of the Respondent no. 1, along with applications for condonation of the delay in filing the same, if any.

If such applications and appeals are filed, it will be open to the appellate authority to consider all questions, including the questions of limitation and whether any

conditional interim order need be passed in the matters, in accordance with law.

It is made clear that the merits of the disputes raised by the parties have not been gone into by this court.

Affidavit-in-opposition filed in WPA 18572 of 2019, as per previous direction, be kept on record.

However, it is made clear that, since further affidavits have not been invited, it is deemed that none of the allegations of the parties have been admitted by each other.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)