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ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/563/2022

J. S. CHANDHOK (DEVELOPERS) PVT. LTD.
VERSUS
UNION OF INDIA AND ORS.

BEFORE:

The Hon'ble JUSTICE RAJASEKHAR MANTHA

Date : 24th February, 2022

Appearance:

Mr. Mainak Bose, Adv.

Mr. Neeraj Kumar Pandey, Adv.

Mr. S. Mohammed Akhter, Adv.

Mr. Dhiraj Trivedi, Adv.

Mr. Avinash Kankani, Adv.

The Court:- The writ petitioner is aggrieved by a notice dated 27th November, 2021 affixed under Section 8 of the Enemy Property Act, 1917 in respect of premises No. 21, Ganesh Chandra Avenue, Kolkata-700013.

It is submitted that the property was never ever an enemy property and the question of the same being under the custodian did not and could not arise. Counsel for the custodian submits that the property in question had vested under an order of vesting passed by the custodian on 16th August, 1977.

Since the petitioner submits that the property was never ever enemy property, its remedy is under Section 18 of The Enemy Property Act, 1968 in the light of a notification dated 21st March, 2018 published by the Central Government. By the said notification and in exercise of powers under Section 18 of The Enemy Property Act, 1968 the Central Government prescribed Rules. Rule 2 thereof indicates that any person aggrieved by an order of vesting of any

property in the custodian, may make a representation before the Joint Secretary in the Ministry or Department of Government of India within thirty days of receipt of such order or from the date of its publication in the official Gazette, whichever is earlier.

It appears to this Court, that the petitioner had efficacious and alternative remedy since the year 2018 under the aforesaid Act. Even a question as to whether a property in fact falls within the meaning of expression ‘ Enemy Property’ is a matter that comes within the scope of adjudication under the aforesaid Rules of 21st March, 2018.

Without prejudice to the rights and contentions of any of the parties, the writ petitioner may avail of such remedy in accordance with law. This Court is also not inclined to entertain the writ petition in view of large number of disputed questions of fact that have emerged not only in the writ petition but also in two compilations of documents produced on behalf of the Custodian.

With the aforesaid observations, the writ petition is disposed of.

(RAJASEKHAR MANTHA, J.)

