

OD-1 & 2

**IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction**

In the matter of:

IA No.GA/1/2022
With
WP/1502/1995
In
APOT/38/2022

THE STATE OF WEST BENGAL & ORS.
VERSUS
ORIENT PAPER & INDUSTRIES LTD. & ANR.

AND

IA No.GA/1/2022
With
WP/1502/1995
In
APOT/39/2022

THE STATE OF WEST BENGAL & ORS.
VERSUS
ORIENT PAPER & INDUSTRIES LTD. & ANR.

BEFORE:

The Hon'ble JUSTICE ARIJIT BANERJEE

And

The Hon'ble JUSTICE KAUSIK CHANDA

Date : March 7, 2022.

Appearance:

*Mr. Amitesh Banerjee, Sr. Adv
& Sr.Standing.Counsel.
Mr. Supratim Dhar, Adv.
Mr. Paritosh Sinha, Adv.
..for the appellant*

*Mr. Mr. Jaydip Kar, Sr. Adv.
Mr. Siddhartha Banerjee, Adv.
Mr. Suchayan Banerjee, Adv.
Mr. S.K.Banerjee, Adv.
Mr.Souradeep Banerjee,Adv.*

.for the respondents

The Court: With the consent of the parties, these two appeals
and the stay applications are taken up for hearing together.

Two orders of the learned single Judge, both interim in nature, are under challenge in the present appeals.

The dispute between the parties pertain to a property situated at 19 River Side Road, Barrackpore, North 24 Parganas, West Bengal.

The writ petitioner/respondent approached the learned single Judge saying that the said property was requisitioned by the State authorities on December 1, 1965 under the provisions of the West Bengal Premises (Requisition and Control) Act, 1947. However, though the possession of the premises was taken by the State authorities, the land was neither acquired nor any compensation was paid for the same. With the passage of time, 1947 Act lapsed and consequently, the proceedings also lapsed.

On an earlier occasion, the writ petitioner had approached this court where an order was passed for return of the land to the writ petitioner. Alleging violation of such order, the writ petitioner had moved a contempt application on which an order dated August 19, 1994, was passed directing the concerned authorities to take necessary steps for declaration and notification for acquisition of the disputed property within three months from the date of the order, in default, to vacate the disputed premises within seven days from expiry of the period of three months.

Subsequently, the State Government issued a notification under Section-4 of the 1894 Act on January 6, 1995. Such notification was challenged by the writ petitioner, by way of the present writ petition, on the ground that enquiry inviting objection under Section-5A of the 1894 Act had been dispensed with without any justification. Initially, there was an

order of status quo on that writ petition. Subsequently, the writ petition was dismissed for default. The writ petition was thereafter restored.

On the said writ petition, two orders were passed by the learned single Judge, first on February 3, 2022 and the second one on February 17, 2022. In the order dated February 3, 2022, the learned Judge observed, inter alia, as follows :-

“Learned Counsel for the respondents seeks accommodation to take instructions regarding whether the land in question can be returned to the petitioners on payment of compensation or whether the State respondents are agreeable to purchase the land directly from the petitioners at the present market rate.

Let the matter appear under the same heading on 17th February, 2022.”

In the order dated February 17, 2022, the learned Judge observed as follows:-

“By an order dated 3rd February, 2022, this Court granted liberty to State respondents to take instructions as to whether the land in question can be returned to the petitioners on payment of compensation or whether the State respondents are agreeable to purchase the land directly from the petitioners at the present market rate.

In view of the matter having been heard at length, no further submission on the issue is called for.

As a last chance the State respondents are granted accommodation for taking instructions qua the order dated 3rd February, 2022.

Let the matter appear under the same heading on 24th February, 2022.”

The State is aggrieved by the fact that it has been directed to obtain instruction as to whether it will pay compensation for the concerned land and the structures thereon to the writ petitioner or return the land to the writ petitioner. The State says that admittedly, the land belongs to the Ministry of Defence, Union of India. The question of payment of compensation for the land to the writ petitioner cannot arise. Ofcourse, compensation for the structure will be paid to the writ petitioner. In this connection, Mr.Banerjee, learned Senior Standing Counsel draws our attention to a letter dated March 17, 1994 written by the Deputy Secretary, Government of India to the Home Secretary, Government of West Bengal wherein the Central Government records its no objection to the State Government acquiring the land and the super-structures in question. In the said letter, it is stated, inter alia, as follows:-

“The State Government will pay the compensation for the land to the Central Government as assessed by Director General Defence Estates while that for the superstructures will be payable to the present holder of occupancy rights.”

Learned Senior Standing Counsel says that the learned Judge has already decided that compensation for the land is to be paid to the writ petitioner. This is why the State is aggrieved since the land belongs to the Union of India.

We do not find from the orders under appeal that any final decision has been arrived at by the learned single Judge. The learned Judge required the State advocates to obtain instructions. The learned State advocates will be at liberty to convey to the learned single Judge whatever their instructions are. The learned Judge is requested to consider all submissions made on behalf of the State including the submission that compensation for the land is not payable to the writ petitioner but is payable to the Ministry of Defence and to take an appropriate decision in the matter.

Learned Senior Standing Counsel submitted that the Union of India should be added as a party to facilitate disposal of the writ petition. We are not inclined to pass any such direction. If the learned Judge thinks that the presence of the Union of India is necessary for full and effective adjudication of the issues involved in the writ petition, appropriate orders may be passed. This observation shall not be construed as any kind of direction of the Division Bench.

We have not gone into the merits of the matter at all. It will be upto the learned single Judge to decide the writ petition in accordance with law.

The two appeals and the connected applications are accordingly disposed of.

Since the writ petition is pending since 1995, the parties will be at liberty to request the learned single Judge for early disposal of the writ petition.

(ARIJIT BANERJEE, J.)

(KAUSIK CHANDA, J.)

ssaha
Ar(cr)