

ORDER SHEET

WPO/1859/2022

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

CENTRAL WAREHOUSING CORPORATION
-VS-
STATE OF WEST BENGAL AND ORS

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date : 25th April, 2022.

Appearance:

Mr. Samrat Chowdhury, Adv.

Mr. Shyamal Chakraborty, Adv.

Mr. Rajnish Kalawatia, Adv.

Mr. Soumya Ray, Adv.

Mr. Manoj Malhotra, Adv.

Mr. Suman De, Adv.

The Court: Learned counsel for the petitioner contends that respondent no.5 is in unauthorized occupation of the premises in dispute, in respect of which the Estate Officer has already passed an order of eviction as envisaged under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971. However, the said respondent has not yet vacated possession of the premises, for which the petitioner had to approach the police authorities who have not taken any steps on such request till date.

Learned counsel appearing for the State submits that, despite the parties having been asked to co-operate in a joint inspection in respect of the premises, they have not appeared for such purpose as yet.

Counsel appearing for the private respondent no.5 contends that, against the eviction order passed by the Estate Officer, an appeal has been preferred under Section 9 of the 1971 Act, which is pending till date along with an application for stay of the eviction order.

That apart, in view of the existence of an arbitration clause in the contract between the parties, it is submitted that the private respondent has also taken out an application for interim relief under Section 9 of the Arbitration and Conciliation Act, 1996, in connection with which an order of status quo was passed by the City Civil Court, as annexed at pages 36-37 of the writ petition. As such, it is submitted that the police cannot take any steps at present, particularly at the behest of the petitioner, since the same would be in gross violation of the said status quo order.

Upon hearing learned counsel for the parties, it is evident that vide order no.03 dated February 28, 2019 passed in Miscellaneous Case No. 528 of 2019, an order of status quo was passed in respect of the disputed premises by the City Civil Court, within the contemplation of section 9 of the Arbitration and Conciliation Act, 1996. Since the said order is still subsisting, despite the pendency of an application of the petitioner for transfer of the said proceeding to the Court where the appeal is pending at the behest of the private respondent, the eviction order passed by the Estate Officer cannot be executed by the petitioner, since any direction on the police authorities in that regard would tantamount to violation of the said status quo order on the part of the petitioner.

In such view of the matter, WPO/1859/2022 is disposed of without granting any relief as prayed to the petitioner, however, with liberty to the

petitioner to approach the police authorities in the event the status quo order is vacated and/or set aside and/or is negated in any form by any competent forum with similar relief as made in the writ petition, that is, for police help for implementing the eviction order by the Estate Officer. If so approached, the police shall grant such help, subject to there being no legal impediment thereto otherwise, at the cost of the petitioner.

No order as to costs.

Urgent certified photocopies of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)

sg.