

W.P.A.12723 of 2023

Smt. Gopa Chakravorti & ors.
Vs.
Union of India & ors.

Mr. Nikhil Kumar Gupta
...for the petitioners

Ms. Aparna Banerjee
...for the State

The petitioners are the shop-owners under Metro Railway. By virtue of an agreement the petitioners were inducted the licensees with license fees in respect of shops at Tallygunj Metro Station. Subsequently, they were in possession there was a dispute between the shop-keepers and the Metro Railway Authority with regard to payment of license fee. The said dispute lead the parties to approach this Court under Article 226 of the Constitution being WP 10263 (W) of 2007. The Hon'ble Justice Dipankar Datta, (as his lordship then was) on 8th June, 2007 passed the following orders:-

“Keeping in mind the factors of balance of convenience and inconvenience and the extent of prejudice to be suffered by either of the parties if the interim order is extended, this Court is of the further considered view that ends of justice would be subserved if the interim order passed by this Court on 22.05.2007 is extended for a

further period of three months from date or until further orders whichever is earlier. It is ordered accordingly.

The petitioners are, however, directed to pay for the present, occupational charges assessed @ Rs.10,000/- per sq.ft. per year from 1.4.05 as agreed upon by the parties, wholly without prejudice to their respective rights and contentions. The Metro Railway authorities shall assess the arrears and shall inform the petitioner individually in this respect within a week from date. The petitioners shall have a months time from date of receipt of such intimation for liquidating the arrear occupational charges. The petitioners shall also pay current occupational charges on the basis of the rate as mentioned above.

It is made clear that if there be any default on the part of any one of the petitioners to liquidate arrear occupational charges and also to pay current occupational charges at the rate mentioned above, this interim order shall lapse and shall not protect the defaulting petitioner.

The respondents shall be at liberty to file affidavit in opposition within four weeks from date; reply, if any, thereto shall be filed by the petitioner a week thereafter.”

It is found from the record that the licensee/shop-keepers failed to pay license fees as directed by the Hon'ble Datta J, in the aforesaid petition. The annexures show that lacks of rupees are

pending to be paid by the petitioners. Under such circumstances, the respondent Metro Railway authority issued eviction notice against the petitioners.

In the eviction notice the respondents stated that the said notice was issued under Section 147 of the Indian Railways Act. However, the unauthorised occupant can only be evicted under the provisions of Public Premises (unauthorised occupant) Act.

It is needless to say that a party who seeks equity must come with clean hands. In one hand, the petitioners admitted before this Court that they would pay lincese fee at enhanced rate and on the other hand, they enjoyed the property without paying occupational charges as per the order of this Court, cannot be permitted.

In view of such circumstances, I do not find any merit in the instant writ petition and accordingly the same is dismissed.

(Bibek Chaudhuri, J.)