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21.08.2023
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 13800 of 2018

Pankaj Kumar Agrawal
Vs.
Union of India & Ors.

Mr. Somnath Ganguly,
Mr. T.K. Mitra,
Mr. P. Chatterjee
...for the petitioner

Mr. Ajit Kumar Mishra,
Mr. Abhishek Dey,
Mr. Suprovat Banerjee
...for the respondents

Learned counsel for the respondents submits that in view of the long pendency of the application for recall, the respondents were compelled to sell out the iron and steel scraps, which are the subject-matter of the writ petition, to third parties.

As such, it is submitted, the writ petition has become infructuous.

Learned counsel appearing for the petitioner submits that the petitioner's challenge in the writ petition is on several aspects, including on the question as to whether the respondents were justified in charging ground rent for the relevant period at all. It is submitted that by way of the sale to third parties during pendency of the writ

petition, the respondents have virtually rendered the writ petition infructuous.

Upon a primary consideration of the arguments of the parties, it is evident that the reliefs sought by the writ petitioner entirely pertain to the iron and steel scraps, which have already been sold out to third parties. Even if the petitioner succeeds in getting an order in the writ petition today, the best relief that the petitioner could get is one of damages, which cannot be quantified by the writ court without taking elaborate evidence.

Instead of pre-judging one of the issues piecemeal, it would be appropriate if the entire set of issues involved are left to be decided before a competent civil court by giving liberty to the petitioner to seek damages, if he is so entitled.

Needless to say, the entitlement of the petitioner to get damages also hinges upon the outcome of adjudication on the preliminary issue as to the payability of the petitioner of ground rent, during the relevant period, in the first place.

Instead of deciding the writ petition piecemeal, W.P.A. 13800 of 2018 is disposed of as infructuous, with liberty to the petitioner to seek appropriate relief of damages and ancillary reliefs, if the petitioner is so entitled, on the self-same cause of action as taken in the writ petition.

It is made clear that if the petitioner approaches a competent civil court for such relief, as indicated above, it will be open to the civil court to decide all issues, including those raised in the present writ petition, on their own merits, without being influenced on merits by any of the observations made herein.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)