

D/L. 34.
October 16, 2023.
MNS.

WPA No. 19791 of 2023

Chandannagar Station Area Hawkers Co-
operative Society Ltd.

Vs.

Union of India and others

Mr. Supratim Laha,
Mr. Sumanta Biswas,
Mr. Bikash Shaw

... for the petitioner.

Mr. Sukumar Bhattacharyya,
Mr. Arunava Ganguly

...for the respondent-authorities.

1. Affidavit-of-service filed in Court today be kept on record.
2. Learned counsel for the petitioner contends that the members of the petitioner-cooperative society are stall owners and vendors occupying a particular portion outside the railway station at Chandannagar.
3. It is argued that the petitioner-cooperative society represents several such vendors and hawkers, who are in occupation of the said property since the year 1985.
4. Learned counsel places reliance on Annexure P/3 at page 31 of the writ petition, which is a purported internal communication dated April

11, 2005, whereby it was indicated by the Divisional Engineer (3), Eastern Railway, Howrah, to the Assistant Engineer, Bandel, that grant of the railway land for commercial purpose on lease/licence basis is not possible as per Railway Board Circular. However, the railway land may be leased / licensed out for development of planned shopping complex through co-operative society amongst the existing shop-keepers as per Railway Board Circular.

5. It is argued that in terms of such assurance, the petitioner-cooperative society was formed. However, the railway authorities are seeking to evict the members of the petitioner without taking recourse to due process of law.
6. Learned counsel appearing for the railway authorities submits that the internal communication relied on by the petitioner only commented about the existing shopkeepers. However, the petitioner-society represents encroachers, who are not the then existing shopkeepers.
7. That apart, it is submitted that no injunction order may be passed in respect of the public project, since the railway authorities are

implementing a central project under the name of Amrit Bharat Station Scheme for Development / Modernization of stations of the Eastern Railway. It is submitted that the rank trespassers and encroachers who are squatting over properties belonging to Eastern Railways are being driven out by the railway authorities.

8. Upon a perusal of the materials, it transpires that the petitioner-cooperative society and its members have given several representations to the railway authorities, lastly on June 2, 2023 (Annexure P/10 at page 77 of the writ petition). It is well settled that even unlawful occupiers of property are required to be evicted by following due process of law.
9. The Eastern Railways is not a favoured litigant and cannot drive out encroachers/occupants of railway property without resorting to due process of law.
10. It is also settled that there are specific laws for eviction of unlawful occupants from public property.
11. In any event, learned counsel for the railway authorities submits that the railway authorities

have no qualms in considering the representation given by the petitioner.

12. Hence, WPA No. 19791 of 2023 is disposed of by directing the railway authorities to consider and dispose of the representation dated June 2, 2023 annexed at page 77 of the writ petition, upon giving a hearing to the petitioner-cooperative society and its members.

13. The said disposal shall be in accordance with law. While so disposing of the representation, the respondent authorities shall ascertain as to who are the actual occupiers of the property-in-question and members of the cooperative society-in-question.

14. In the event the outcome of the consideration goes against the petitioner and its members, the railway authorities shall only be permitted to evict the members of the petitioners and other occupants by taking recourse to due process of law, under the available relevant Statute in that regard.

15. It is made clear that in the event the railway authorities have given any notice or acted in terms of the decision to drive out the petitioner and its members without due process of law,

such action of the railway authorities stands set aside by this order.

16. However, nothing in this order shall prevent the railway authorities to evict the petitioner and/or its members in due process of law.

17. There will be no order as to costs.

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

(Sabyasachi Bhattacharyya, J.)