

OD 11

WPO/1312/2023

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

TITAGARH INDUSTRIES LIMITED AND ANR.
VS
THE ESTATE OFFICER, SYAMA PRASAD MOOKERJEE PORT,
KOLKATA AND ANR.

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date: 27th June, 2023.

Appearance:
Mr. Jishnu Chowdhury, Adv.
Mr. Sayantan Bose, Adv.
...for the petitioner

Mr. Subhankar Nag, Adv.
Mr. Ashok Kumar Jena, Adv.
...for the respondents

The Court: The grievance of the petitioner is that the Estate Officer of the Kolkata Port Trust, in gross violation of law and in contravention of the direction of the Supreme Court, instead of deciding finally a previous proceeding for damages instituted by the port against the petitioner, has issued a fresh notice under Section 7 of the Public Premises (Eviction of Unauthorized Occupants) Act.

It is submitted that by a previous order, a coordinate Bench of this Court had directed the Estate Officer to re-hear the matter in the light of the observations made in the said judgment.

Challenging the same, a Special Leave Petition was filed before the Supreme Court, which was ultimately decided by affirming the order of this Court, keeping the question of limitation open. Subsequently, written notes were filed by both the parties before the Estate Officer and the hearing was concluded in the matter afresh by the Estate Officer.

However, instead of passing a final order in connection with the said proceedings upon a consideration of the question of limitation, the Estate Officer went on to issue a fresh notice under Section 7 of the said Act, on the self-same cause of action, making the same claim which is sub judice in the earlier proceedings.

Heard learned counsel for the parties. The action of the Estate Officer in issuing the fresh notice on the self-same cause of action, as sub judice before the Estate Officer in the previous proceedings, is palpably bad and *de hors* the law.

As such, the same cannot be sustained.

In so far as the pending proceeding before the Estate Officer is concerned, it was the bounden duty of the Estate Officer to decide the same in accordance with the order of the Supreme Court, affirming the order of this Court.

Accordingly, WPO/1312/2023 is allowed, thereby setting aside the impugned notice dated May 18, 2023, being Annexure P-18 at page 325-326 of the writ petition, as well as Order No.163 dated May 18, 2023 passed in Proceedings Nos.175/D and 176/D of 1993 by the concerned Estate Officer.

The Estate Officer is directed to pass final orders in connection with the said proceeding, pursuant to the order of the Supreme Court dated February 3, 2022, whereby the judgment and order of the coordinate Bench dated December

23, 2015 passed in C.O. No.1876 of 2014 with C.O. No.1877 of 2014 was affirmed.

Such exercise shall be concluded by the Estate Officer as expeditiously as possible, positively within one month from this date.

No order as to costs.

Urgent certified website copy of this order, if applied for, be made available to the parties subject to compliance with the requisite formalities.

Since no affidavits have been invited, it is deemed that the allegations made in the petition have not been admitted by the respondent.

Affidavit of service filed today be kept on record.

(SABYASACHI BHATTACHARYYA, J.)