

S/L 8
30.9.2024
Court No.19
SD

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO 1274 of 2023

M/s. Kaba Express Pvt. Ltd.
Vs.
Central Warehousing Corporation & Anr.

Mr. Probal Kumar Mukherjee, Sr. Adv.
Mr. Vivekananda Bose
Mr. Sagnik Mukherjee
Mr. Ratikanta Pal

...for the Petitioner.

Mr. Samrat Chowdhury
Ms. Parna Dutta

...for the Opposite Parties.

The matter though has been brought to the list on the prayer of the petitioner for extension of interim order but by consent of the parties, it is taken up for final disposal.

An order of eviction passed under Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 was challenged in an appeal under Section 9 thereof being Miscellaneous Appeal No.11 of 2020.

The learned Chief Judge, City Civil Court at Calcutta, by the order impugned being order no. 19 dated September 28, 2022 has dismissed the said appeal as infructuous on the ground that the opposite party no. 1 has already taken possession of the suit property.

The decree under challenge has been executed, is no ground to hold that the appeal has become infructuous, besides, in the present case, the assessment of damages under Section 7 of the said Act of 1971 was also under challenge in the said appeal.

The order impugned therefore is not sustainable and is accordingly set aside.

The appeal court below is requested to decide the said appeal on its merit in accordance with law.

CO 1274 of 2023 is allowed with the above terms without any order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

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

(Biswajit Basu, J.)