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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 21675 of 2023

Board of Major Port Authority for
Syama Prasad Mookerjee Port & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Ashok Kumar Jena
...for the petitioners

Mr. Suman Sengupta,
Mr. Sanatan Panja
...for the State

1. Affidavit-of-service filed in Court today be kept on record.
2. Learned counsel appearing for the petitioners submits that on several occasions, the Port Trust was faced with difficulties with regard to encroachment of land belonging to the Port Trust allocated after acquisition by the State Government to the Port Trust.
3. Learned counsel places reliance on an order dated May 04, 2019 passed in W.P.A. No. 12968 of 2017, where a coordinate Bench of this Court had directed the concerned District Magistrate to file a report, which was subsequently filed identifying the encroachers. Subsequently, after filing the report,

the learned Single Judge had directed on September 08, 2017 that it was open to the petitioners to initiate proceedings under the appropriate statute of 1971.

4. Subsequently, proceedings were initiated and eviction was sought to be effected by the petitioners-Port Trust.

5. Subsequently, from another order passed in a writ petition filed by the writ petitioners to remove encroachers and seeking help of the State Government in doing so, the appellate Court vide order dated June 09, 2023 passed in MAT 1977 of 2022, observed, inter alia, that there is a complaint made by the appellant-Port Trust stating that the State-authorities are not cooperating with the Port Trust. It was observed that the Court fails to understand as to why the State is not extending assistance to Port Trust and if that be true, is it a case whether the State is supporting the encroachers, which if so, it is a very sorry state of affairs. The Port Trust, it was observed, being a creature of Statute and the land being allotted to the Port Trust is in public interest. Therefore, the State should take proactive steps as and when the Port Trust Authorities approach the police authorities for necessary assistance to execute the orders of eviction passed under the said enactment.

6. Subsequently, the Port Trust-Authorities have come to know that there is further encroachment of huge stretches of property belonging to the Port Trust. It has been ascertained that around 2217 encroachers are squatting on the property of the Port Trust. The exact location of the said unauthorized encroachments and the approximate number of unauthorized occupiers has been indicated by the Port Trust to the State Authorities (Annexure P-6 at page 100 of the writ petition).

7. However, despite several representations to the appropriate authority, including the District Magistrate, District-Purba Medinipur at Tamluk as well as the Chief Secretary of the State of West Bengal, no response have been obtained from the said authorities with regard to identification of the unauthorized encroachers, which identification is essential for the Port to take necessary action for eviction of those encroachers under the appropriate Statute.

8. Heard learned counsel for the parties, upon which it transpires that the Port Trust has been repeatedly held by coordinate Benches and Division Benches of this Court to be a statutory authority and entitled to appropriate assistance from the State in evicting encroachers from its property.

9. Thus, W.P.A. No. 21675 of 2023 is disposed of by directing the respondent no. 2, that is, the District Magistrate, Purba Medinipur at Tamluk, to enquire into the exact identities of the encroachers of the properties of the Port Trust in terms of the list of unauthorized structures, annexed at pages 100 –101 of the present writ petition.

10. The District Magistrate, Purba Medinipur at Tamluk, that is, the respondent no. 2 herein, shall, for such purpose, make adequate enquiries, if necessary calling for reports from the concerned Block Development Officer or other authorities, if need be, taking police assistance in that regard. A comprehensive report shall be prepared by the District Magistrate after such enquiry and handed over to the petitioners.

11. The entire exercise shall be concluded by the respondent no. 2 at the earliest, positively within three months from date.

12. Upon completion of such exercise, the list containing details of the encroachers shall be handed over by respondent no. 2 to the petitioners immediately thereafter to enable the petitioners to take appropriate action under the provisions of the Public Premises (Unauthorized Occupants) Act, 1971 for eviction of such encroachers.

13. There will be no order as to costs.

14. 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.)