

Item No.2
11.07.2024
Court. No. 9
GB

W.P.A. 23044 of 2022

Epic Marketing Company Pvt. Ltd. & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Indrajit Chatterjee

...for the Petitioners.

*Mr. Rajarshi Basu,
Mr. Debraj Sahu*

...for the State.

1. The petitioners have approached this Court for a direction upon the respondent no.4, that is, the Estate Manager, West Bengal Small Industries Development Corporation Limited to refund the premium deposited by the petitioners at the time of execution of the deed of lease dated December 26, 2006. Such refund has been claimed on account of premature termination. The said lease was allegedly for 99 years. The petitioners claim that they could only enjoy the property for 6 years. Thus, the petitioners would be entitled to proportionate refund of the premium.
2. Upon termination of the lease, the respondents had removed the petitioners from the said land. Challenging such removal, the petitioners approached the writ Court by filing W.P. No.18657 (W) of 2013. The said writ petition was disposed of by a coordinate Bench, inter alia, holding that the petitioners could not make out a case. An eviction order was passed on October 3, 2011, which remained unchallenged.

Thereafter, the petitioners continued to be in possession of the property and the authorities, with the help of the police, removed the petitioners therefrom. The Court held that the petitioners admittedly did not use the land for the purpose for which the same had been leased out. No manufacturing activity had commenced till the middle of 2013. The court recorded that there was no reason why the industrial plot should be kept fallow and unused for a long time. The Court did not find any irregularity in the action of the respondents. However, it was recorded that the order would not prevent the petitioners from seeking any refund if the petitioners were so entitled to, in accordance with law.

3. The writ petition has been filed in 2024 praying for such refund. It is a state claim. It is astonishing that the petitioners did not take any steps at all for 9 years. The cause of action lastly arose for such money claim on the liberty granted by this Court on July 5, 2013. 9 years have lapsed since then. A money suit cannot be filed. Now, the petitioner has approached the writ court by relying on two representations dated January 5, 2021 and July 7, 2022.
4. Mr. Basu, learned advocate appearing on behalf of the State respondents submits that the Estate Manager, West Bengal Small Industries Development Corporation Limited by a communication dated January 18, 2021, intimated the learned advocate for

the petitioners that the question of refund of the amount and providing an alternative space, did not arise. The petitioners were advised to stop sending letters to the authority. This order has not been challenged.

5. The writ Court is not in a position to direct refund as the claim of the petitioners would be based on evidence. The writ petition is also belated. The Estate Manager has denied the claim of the petitioners by intimating the petitioners that the question of refund did not arise. The decision not to provide another space is the discretion of the authority and this writ Court cannot question such decision, especially when the petitioners had failed to comply with the terms and conditions of the lease agreement and he was evicted from the property. Such eviction was also not challenged by the petitioners. The writ Court, on an earlier occasion, did not provide any relief.
6. However, the reason why the money could not be refunded should be intimated to the petitioners by the Estate Manager, West Bengal Small Industries Development Corporation Limited. This direction upon the Estate Manager shall not be construed as entertaining the prayers in the writ petition by condoning the delay. The petitioners are entitled to know the reason. Such reason shall be supplied to the petitioners within two months from communication of this order.

7. Accordingly, the writ petition is disposed of.
8. However, there will be no order as to costs.
9. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)