

Court No. 24

WPA 27248 of 2023

08.03.2024

(AD 76)

(S. Banerjee)

Indo Swiss Trading Co. Pvt. Ltd. & Anr.

Vs.

The State of West Bengal & Ors.

Mr. Tapas Kumar Mondal

... for the petitioner

Mr. Pantu Deb Roy

Mr. Manas Kumar Sadhu

... for the State

Mr. Ankit Sureka

Mr. Biplab Das

... for the respondent no. 5

Mr. Ashok Kumar Jena

... for the respondent no. 6

The petitioners entered into an agreement with Hooghly Nadi Jalapath Paribahan Samabay Samitee Limited for running ferry in between Howrah and Ahiritola. The agreement was initially entered in the year 1996 and thereafter the terms and conditions of the said agreement were changed from time to time.

In course of business, certain differences and disputes arose between the Cooperative Society and the petitioners. The Special Officer of the Cooperative Society passed an order on 28th June, 2023 by directing the petitioners to pay off the dues to the tune of Rs. 36 lac. As the petitioners failed to clear the dues, the petitioners were advised to handover the key and authority of Ahiritola Ghat to the Society for the next two years so that the Society could run the ferry ghat and realize the dues.

The petitioners are aggrieved by the same.

It has been submitted that the Special Officer of the Cooperative Society does not have any jurisdiction to restrain the petitioners from running the ferry service. For settlement of disputes there is a clause in the agreement between the parties for arriving at a decision across the table failing which the parties may take steps under the Arbitration and Conciliation Act, 1996.

Learned advocate representing the Cooperative Society submits, upon instruction that, huge sum of money is due and pending from the petitioners. On account of non-payment of the agreed amount, the Society is not in a position to pay the employees and is also not in a position to run and maintain the ferry ghat.

Learned advocate representing the Kolkata Port Trust submits, upon instruction, that nearly 1 crore of amount is due and payable from the petitioners on account of the lease rent in respect of two plots allotted to the petitioners. Despite repeated demand, the dues have not been cleared.

It appears from the submissions made on behalf of the parties that admittedly a dispute has cropped up between the petitioners and the Cooperative Society. It

also appears that the impugned order was passed by the Special Officer in the month of June, 2023. The present writ petition has been filed in December, 2023. The delay in filing the writ petition, despite the petitioners being advised not to operate the ferry ghat, has not been explained in the instant writ petition.

As per the provision of Section 102 of the West Bengal Cooperative Societies Act, 2006, any dispute concerning the management or business or affair of a Cooperative Society shall be filed before the Registrar for settlement.

In view of the above, the instant writ petition is disposed of by granting leave to the petitioners to approach the Registrar of Cooperative Societies for settlement of the disputes between the parties.

In the event such a dispute is raised before the Registrar/ concerned Assistant Registrar of Cooperative Societies, the same shall be considered in accordance with law after giving reasonable opportunity of hearing to all the necessary parties. A decision shall be taken in the matter at the earliest but, positively within a period of ninety days from the date of communication of this order.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)