

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

M.A.T. 2253 of 2024

With

CAN 1 of 2024

Prangan Trust & Anr.

vs.

Ria Karak & Ors.

For the Appellants

: Mr. Saptangshu Basu, Sr. Adv.,
Mr. Arijit Biswas
Mr. Abhishek Tikadar

**For the Respondent No. 1/
Writ petitioner**

: Mr. Billwadal Bhattacharyya,
Sr. Adv.,
Mr. Avishek Guha
Mr. Ankush Majumdar
Ms. Shilpa Das

For the State

: Mr. Rajarshi Basu
Mr. Ananda Dulal Sarkar

Heard on

: December 17, 2024

Judgment on

: December 17, 2024

DEBANGSU BASAK, J.:-

1. Appeal is at the instance of the private respondent and directed against an order dated December 2, 2024 passed in W.P.A. 13087 of 2024.

2. By the impugned order, learned Single Judge passed an interim order appointing an advocate as Special Officer. Such Special Officer was directed to inspect the premises. Municipal Corporation was directed to ensure presence of competent officer during such inspection. Municipal Corporation and the Special Officer were directed to affix a notification prohibiting any commercial activity until further orders of the Court. Officer-in-Charge of the Jurisdictional Police Station was directed to ensure security during inspection.

3. Learned Senior Advocate appearing for the appellants submits that appellants are enjoying a lease in respect of the property concerned by virtue of a registered deed of lease dated June 30, 1988. He draws the attention of the Court to the relevant provisions of the deed of lease. He also draws the attention of the Court to a notification dated September 13, 2023 issued by the Government of West Bengal. He submits that, conversion of user of a leasehold property is now permissible upon payment of the prescribed fees. He submits that, appellants applied for conversion. Such application is yet to be decided upon. He also draws the attention of the Court to a notice dated August 29, 2024 issued by the State to his client. He submits that, a period of six months was granted to his client to remedy the breach noted in such notice. Time to comply with the requisition contained in the notice dated August 29, 2024 is yet to expire.

4. Learned Senior Advocate appearing for the appellants submits that, the impugned order is final in nature as it impeaches on the activities of the appellants in respect of the premises concerned.
5. State and the writ petitioner are represented.
6. Appellants before us are lessees in respect of a premise. Lease enjoyed by the appellants is governed by the terms and conditions of the lease deed dated June 30, 1988. One of the clauses of such lease deed does not allow change of user without prior permission in writing of the Government or any other authority prescribed in that regard. Lease was granted to the appellants for the purpose for running a school for music and fine arts.
7. Admittedly, the leasehold premises is no longer being used for the purpose of running a school for music and fine arts.
8. State Government noted breaches on the part of the appellants with regard to the lease deed dated June 30, 1988. State Government issued a notice dated August 29, 2024 requiring the appellants before us to remedy the breaches within the period of six months from such notice.
9. Writ petitioner filed the writ petition seeking cancellation of the deed of lease existing in favour of the appellants.
10. In such writ petition, learned Single Judge passed the impugned order.

11. The order impugned is interim in nature. As noted above, it appoints an advocate as a Special Officer and directs the Special Officer to inspect the premises in presence of the officials of the Bidhannagar Municipal Corporation and to affix a notice prohibiting any commercial activity until further orders of the Court.

12. Writ petition is yet to be finally disposed of.

13. In response to the query of the Court, learned advocate on record for the appellants submits that a week's time may be afforded to file the affidavit-in-opposition to the writ petition.

14. In such circumstances, let affidavit-in-opposition be filed within a week from date. Reply thereto, if any, be filed on January 3, 2025.

15. Learned Single Judge is requested to hear and dispose of the writ petition as expeditiously possible.

16. So far as the impugned order is concerned, we find that it contains cogent reasons for the exercise of the discretion as done by the learned Single Judge. We are not in a position to return a finding that discretion exercised by the learned Single Judge suffers from any material irregularity.

17. There are clauses in the lease deed which prohibits change of user without prior written consent of the Government. Admittedly prior written consent is lacking. The interplay between the clause of the lease deed and the subsequent notification of the State Government with regard to change of

user needs to be decided. Writ petitioner did make out a prima facie case for grant of interim relief. The balance of convenience also lies in favour of the writ petitioner in granting the interim relief as done by the learned Single Judge.

18. In such circumstances, we find no merit in the appeal.

19. **M.A.T. 2253 of 2024** and the connected application being **CAN 1 of 2024** are dismissed without any order as to costs.

(Debangsu Basak, J.)

20. I agree.

(Md. Shabbar Rashidi, J.)

S.D./A.D.