

02.09.2025
Item No.116.
Court No.551.
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266306

WPA 4058 of 2025

Panna Lal Jhawar.
Vs.
Union of India & Ors.

Mr. Debabrata Roy,
Mr. Rishav Ahmed Khan, ...for the petitioner.

Mr. Subhankar Nag,
Mr. Ashok Kr. Jana,
...for the respondent nos.2 & 3.

Mr. Nilanjan Bhattacharjee, Sr. Adv.,
Mr. S. Mazumdar, ...for the respondent no.1.

1. The writ petitioner has approached this Court seeking issuance of a writ in the nature of mandamus commanding the respondent, Syama Prasad Mookerjee Port authorities to allow the petitioner to remove his goods and machineries lying at premises no.103A, Foreshore Road, Howrah.
2. The writ petitioner claims to have come in occupation of a warehouse as a tenant under M/s. John Patterson & Co. Ltd. in the year 1988. It is the petitioner's case that M/s. John Patterson & Co. Ltd. was a tenant in respect of the said premises under Syama Prasad Mookerjee Port i.e. the respondent no.2 herein and that such tenancy was to

expire on October 31, 2001. The petitioner claims that the petitioner had applied for direct tenancy under the respondent no.2 and while such request of the petitioner for direct tenancy under the respondent no.2 was under consideration, the Estate Officer passed an order of eviction against M/s. John Patterson & Co. Ltd. thereby directing that all the persons who had been in occupation of the said premises or any part thereof should vacate the same within fifteen days from the date of such order of eviction.

3. Assailing such order of eviction, M/s. John Patterson & Co. Ltd had approached this Court by filing a writ petition being W.P. 506 of 2002. The said writ petition was dismissed on August 14, 2003. The writ petitioner on the other hand approached this Court by filing a writ petition being WPA 7383 of 2003 claiming direct tenancy under respondent no. 2. The same was dismissed by a co-ordinate Bench of this Court by an order dated August 11, 2021. The writ petitioner has carried the matter in appeal (being MAT No. 980 of 2021) before the Hon'ble Division Bench, which is pending.

4. The present writ petition has been filed alleging that certain goods and machineries belonging to the petitioner are lying at the said premises which was under the occupation of the petitioner and that the said premises has since been taken possession of by the Respondent Port authorities on February 07, 2025. It is submitted by the petitioner that padlocks have been put at the entry of the said premises and that despite repeated requests; the petitioner has not been allowed to remove the said goods and machineries.
5. Mr. Nag, learned advocate appearing for the Respondent Port authorities invites the attention of this Court to the provisions of Section 6 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (hereafter “the said Act of 1971”) and submits that in terms of the provisions of Section 6(1) of the said Act of 1971, upon the order of eviction being passed on February 22, 2007, a notice of disposal of the property left at the public premises by unauthorized occupants had been affixed at the outer door of the relevant premises and the same had also

been published in the February 19, 2025 - edition of "The Statesman" (an English daily).

6. It is further submitted that the petitioner is, in any case, an outsider in respect of the premises in question inasmuch as the Port Authorities had/has no privity of contract with the petitioner. It is further submitted that the Port Authorities had recognized M/s. John Patterson & Co. Ltd. as their tenant and that the tenancy of M/s. John Patterson & Co. Ltd. admittedly expired in the year 2001 whereafter an order of eviction was passed on February 22, 2007 under the relevant provisions of the said Act of 1971.
7. It is then submitted that in the said proceeding for eviction that had been conducted by the Estate Officer, the petitioner had also appeared.
8. Mr. Nag relies on a judgment of the Hon'ble Supreme Court in the case of ***Board of Trustees for the Port of Kolkata & Ors. Vs. APL (India) Pvt. Ltd. & Ors.*** reported at **(2019) 14 SCC 374** and submits that once a notice in terms of the provisions of Section 6 of the said Act of 1971 has been issued and published in newspaper, the Port Authorities would be entitled to sell the property left at

the relevant premises if even after publishing of such notice nobody comes to claim the property within the period prescribed in and in terms of the provisions of Section 6 of the said Act of 1971. It is further submitted that in fact no request has been made by the petitioner before the Respondent Port Authorities as projected before this Court by way of the present writ petition. Mr. Nag hands up a copy of the notice published in the Statesman (February 19, 2025 edition). The same is taken on record.

9. Mr. Bhattacharjee, learned senior advocate appearing for the Union of India submits that the present writ petition should not be entertained inasmuch as the same involves adjudication of highly disputed questions of facts as regards the ownership of the goods and machineries lying at the subject premises.
10. It is submitted that since the tenancy which ultimately expired in the year 2001 stood in the name of M/s. John Patterson & Co. Ltd., therefore there are good chances of a dispute cropping up as to who is the real owner of the property alleged to have been left at the relevant public premises. It is

further submitted that the maintainability of the writ petition is all the more vulnerable in view of the fact that the original tenant i.e. M/s. John Patterson & Co. Ltd. has not been made party to the writ petition.

11. Heard learned Advocates for the respective parties and perused the material on record.
12. The writ petition does not disclose any document wherefrom it can be discerned that the petitioner had approached the Estate Officer and requested the said authority for allowing the petitioner to remove the goods and machineries lying thereat. There is only a bald averment in paragraph 12 to the effect that the writ petitioner approached the Respondent No. 3 and requested the said authority to allow the writ petitioner to remove his goods and machineries.
13. The writ petition reveals that the Respondent Port Authorities entered into the premises and took physical possession thereof on February 7, 2025. The notice handed up to Court, as published in "The Statesman" (dated February 19, 2025) reveals that it is a notice under Section 6 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 and it is addressed to

M/s. John Patterson & Co. Ltd., under whom the petitioner claims to have come into occupation of the subject premises. The writ petition has been filed on February 17, 2025 i.e. even prior to the issuance of such notice. The petitioner therefore had opportunity even during pendency of the writ petition to take back his goods and machineries, of course, in accordance with the relevant provisions of the said Act of 1961 and the Rules framed thereunder.

14. It is the admitted case of the petitioner that the petitioner's claim for direct tenancy under the Respondent Port Authorities never materialized. The writ petition filed by him seeking issuance of a Writ of Mandamus directing the Respondent Port Trust to grant direct lease in favour of the petitioner got dismissed as far back as on August 11, 2021. An appeal against the order dismissed is pending. Therefore, the petitioner's status cannot be said to be independent of M/s. John Patterson & Co. Ltd.

15. The notice published in the Statesman, indeed gives sufficient room for all claiming under M/s. John Patterson & Co. Ltd. to remove their goods upon clearance of arrears

of rent/damages/cost due from the said original tenant. The said notice therefore suffices as a notice to the petitioner as well.

16. The judgment in the case of **Board of Trustees for the Port of Kolkata & Ors.**

(supra), clearly instructs thus :

“23. In the instant case, the contention urged on behalf of the Port Trust is that even if the goods belonging to the third parties are found lying on the premises after an order of eviction passed under Section 5, it was entitled to sell the goods and deduct from the sale proceeds any amount due to the Port Trust on account of arrears of rent or damages, etc and that the balance of the sale proceeds shall be paid to such person or persons, as may appear to the Estate Officer, to be entitled for the same. We are in complete agreement with this submission made on behalf of the Port Trust. We are of the view that Section 6 of the PP Act has been enacted with obvious purpose of enabling statutory authorities to take all consequential steps after receiving possession of public premises and for recovery of dues, etc. The said provision ought not to be interpreted in a way which defeats the very purpose of its

enactment. Section 6 of the PP Act must be read independent of, and not dependant on, Sections 59 and 61 of the MPT Act. As noticed above, Section 6 of the PP Act applies, inter alia, to the persons who keep their goods in the public premises whether they are tenants/licensees, sub-tenants or any other parties. the Estate Officer, under Section 6 of the PP Act, is entitled to sell the goods even of a stranger, found in/or the premises under unauthorized occupation.”

17. In such view of the matter after expiry of fifteen days from the date of notice under Section 6 of the said Act of 1971, the Estate Officer would be well within his jurisdiction to proceed to dispose of the property remaining on the relevant premises in terms of section 6 of the said Act of 1971.
18. It is recorded that during dictation of this order Mr. Khan, learned Advocate for the petitioner submitted that the petitioner had indeed made written representations also to the Estate Officer. However, since no such representation has been produced before the Court, this Court is not in a position to take cognizance thereof.

19. In any case since the petitioner has been in unauthorized occupation of the premises in question, no order can be passed directing the Respondent Port Authorities to allow the petitioner to remove his goods and machineries allegedly lying at the relevant public premises without the petitioner first paying the sums due and owing to the Respondent Port from the petitioner on account of arrears of rent (of the erstwhile tenant M/s. John Patterson & Co. Ltd. under whom the petitioner came into occupation) together with interest as well as damages for such unauthorized use and occupation in terms of the order of eviction dated February 22, 2007 passed by the Estate Officer under Section 5 of the said Act of 1971 (at pages 69 to 72 of the writ petition). In fact such legislative intent is also manifest from a meaningful reading of the provisions of Section 6(2) of the said Act of 1971. The said order of the Estate Officer binds the petitioner as well.

20. For all the reasons aforesaid, this writ petition cannot be entertained. WPA 4058 of

2025 is, accordingly, dismissed without any order as to costs.

21. Urgent photostat certified copy of this order, if applied for, be supplied to the parties on urgent basis after completion of all necessary formalities.

(Om Narayan Rai, J.)