

07
28.04.2025
Court No.17
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

WPA 4398 of 2025

Radhika Devi

Vs.

Union of India & Ors.

*Mr. Arabinda Chatterjee, Sr. Adv.,
Ms. Kakali Dutta*

...for the Petitioner.

*Ms. Susmita Saha Dutta,
Mr. Sachit Talukdar*

...for the Union of India.

*Mr. Subhankar Nag,
Mr. Abhishek Banerjee*

...for the respondent no. 2.

The petitioner has challenged the notice bearing No. *Lnd.3184/100/II/25/688* dated February 14, 2025 issued by the Estate Manager, Estate Division of Shyama Prasad Mookerjee Port Trust, Kolkata (“*Port Trust*” in short), the respondent no. 3 herein. The said respondent, by the said notice, has asked the petitioner to hand over possession of Plot No. D480/B and Plot No. D480/A/2 in favour of the Port Trust alleging unauthorized parting with possession of those plots and unauthorized construction thereon. The arrear rents in respect of the said two public premises were also demanded.

Mr. Arabinda Chatterjee, learned senior advocate for the petitioner submits that the impugned notice is not sustainable inasmuch as the petitioner cannot be evicted from the subject plots without initiation of proceeding under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (hereinafter referred to as the “*said Act of 1971*”).

Mr. Subhankar Nag, learned advocate for the Port Trust submits that the impugned notice is a general notice demanding arrear rent. The Port Trust is yet to initiate a proceeding under the said Act of 1971 for eviction.

Heard learned advocate(s) for the parties, perused the materials-on-record.

The Port Trust, in its affidavit-in-opposition, has categorically stated that it is duty bound to follow the statutory

mandate of the said Act of 1971 and the port authorities are yet to invoke the provisions of the said Act.

To evict the petitioner for the said two plots the Port Trust is required to issue a notice under Section 4 of the said Act of 1971. The impugned notice does not qualify the requirements of such notice; therefore, is not sustainable, accordingly, the impugned notice is set aside.

It is however made clear that this order would have no impact on the proceeding that may be initiated by the Port Trust for eviction of the petitioner from the said two plots in accordance with law.

No affidavit-in-reply since has been invited, the allegations made in the affidavit-in-opposition of the Port Trust are deemed to have been denied by the petitioner.

W.P.A. 4398 of 2025 is disposed of with the above observations without any order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent Photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Biswajit Basu, J.)