

D/L- 9-11
14/05/2025
Ct. No.-6
Aritra

C.O. 1167 of 2024

**Syama Prasad Mookerjee Port, Kolkata formerly
knows as Board of Trustees for the Port of
Kolkata
Vs.
Bhagirath Kejriwal & Ors.**

With

C.O. 1170 of 2024

**Syama Prasad Mookerjee Port, Kolkata formerly
knows as Board of Trustees for the Port of
Kolkata
Vs.
Bimal Kumar Pawan**

With

C.O. 1186 of 2024

**Syama Prasad Mookerjee Port, Kolkata formerly
knows as Board of Trustees for the Port of
Kolkata
Vs.
Swastika Supply Co.**

Mr. Kishore Dutta, Sr. Adv.
Mr. Jishnu Saha, Sr. Adv.
Mr. Subhankar Nag
Mr. Snehashis Sen
Mr. Abhishek Banerjee
Mr. Sitikantha Mitra
...for the petitioner

Mr. Saptansu Basu, Sr. Adv.
Mr. Avinash Kankani
Mr. Suman Majumder
....for the opposite party
in C.O. 1170 of 2024

Mr. Debjit Mukherjee
Mr. Kaustav Bhattacharya
Ms. Priyanka Jana
....for the opposite party No.1

This application under Article 227 of the
Constitution of India is at the instance of Syama Prasad

Mookerjee Port, Kolkata praying for a direction upon the learned Additional District Judge, 5th Court at Howrah to dispose of the Miscellaneous Appeal No.240 of 2006 expeditiously.

Mr. Dutta, learned senior advocate assisted by Mr. Saha, learned senior advocate appears for the petitioner. Mr. Dutta places reliance upon Section 9(4) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 in support of his contention that every appeal filed under Section 9 of the 1971 Act shall have to be disposed of by the appellate officer as expeditiously as possible and every endeavour shall be made to dispose of the appeal finally within one month from the date of filing the appeal, after providing the parties an opportunity of being heard.

Mr. Dutta further places reliance upon a decision of the Hon'ble Supreme Court in the case of **S.D. Bandi vs. Divisional Traffic Officer, Karnataka State Road Transport Corporation & Ors.**, reported at **(2013) 12 SCC 631**, in support of his contention that disposal of such appeals must be within a period of 30 days in order to eliminate unnecessary delay in disposal of such cases.

Mr. Mukherjee, learned advocate appearing for the opposite party No.1 submits that the other opposite parties have not been served. He further submits that the opposite parties are in no way responsible for the

delay in hearing of the appeal as a substitution application was pending before the learned Judge of the First Appellate Court. He further submits that the petitioner herein has raised an issue with regard to the maintainability of the appeal and the appeal cannot be heard on merits with deciding the issue of maintainability.

Heard the learned advocates for the respective parties and perused the materials placed.

In view of the order sought and proposed to be passed, this Court is of the considered view that there is no necessity to direct issuance of any notice upon the other opposite parties. However, the learned advocate on record of the petitioner shall be obliged to forward a copy of this application along with this order upon the other opposite parties or the learned advocates representing such opposite parties before the learned Judge of the First Appellate Court.

At this stage, it would be relevant to take note of the decision of the Hon'ble Supreme Court in the case of S.D. Bandi (**supra**) wherein the Hon'ble Supreme Court has given certain suggestions for the purpose of addressing grievance of the Central Government and the State Governments in regard to the unauthorized occupants. It would be relevant to take note of the said suggestions for the purpose of deciding this civil revision

application and for such reason, the relevant portion thereof have been extracted hereinafter:

“33.16. Under Section 9(4), disposal of the appeals must be preferably within a period of 30 days in order to eliminate unnecessary delay in disposal of such cases.”

From the order sheets appended to this application, this Court finds that May 4, 2024 was fixed for hearing of the petition under Order 22, Rule 4 of the Code of Civil Procedure.

It has been uniformly submitted by the learned advocates appearing for the respective parties that in the meantime the said application has been disposed of.

It has been submitted by Mr. Dutta, learned senior advocate that July 17, 2025 has been fixed for argument.

From the order dated April 22, 2025, this Court finds that July 17, 2025 has been fixed for hearing of the appeal on the ground of maintainability.

Mr. Dutta submits that instead of hearing the issue of maintainability in a piecemeal manner, the learned Additional District Judge can be directed to take up the hearing of the appeal including the point of maintainability. In the light of such submission made by Mr. Dutta, learned senior advocate, this Court is of the considered view that a direction may be passed by the learned Judge of the First Appellate Court to take up

the hearing of the appeal including the point of maintainability on the next date and to dispose of the same expeditiously.

Sub-Section (4) of Section 9 of the 1971 Act states that every appeal filed under Section 9 of the 1971 Act shall be disposed of by the appellate officer as expeditiously as possible and every endeavour shall be made to dispose of the appeal finally within one month from the date of filing the appeal, after providing the parties an opportunity of being heard.

It would be relevant to note that sub-section (4) of Section 9 was substituted by Act II of 2015 with effect from June 22, 2015. Sub-section (4) of Section 9 prior to its substitution was as follows:-

“Every appeal under this Section shall be disposed of by the appellate officer as expeditiously as possible”.

The object of the 1971 Act which is to provide for the eviction of unauthorized occupants from the public premises and for certain incidental matters.

Thus, it is evident that the time limit of one month was incorporated by way of substitution in the light of the suggestions given by the Hon’ble Supreme Court in the case of S.D. Bandi (**supra**).

Therefore, the appellate officer while deciding an appeal under Section 9 of the 1971 Act has to keep in

mind the time limit fixed for disposal of appeal under the 1971 Act while deciding such appeals.

This Court finds that the miscellaneous appeal was filed sometimes in the year 2006. However, the fact remains that some interlocutory applications were filed in connection with the said miscellaneous appeal and it is not in dispute that the said appeal is now otherwise ready for hearing.

In the light of the aforesaid observations, the learned Additional District Judge, 5th Court at Howrah is requested to take up the hearing of the Miscellaneous Appeal No. 419 of 2014 (240/2006) including the point of maintainability on the next date fixed, i.e., on July 17, 2025 and to make an endeavour to dispose of the same as expeditiously as possible but preferably within a period of one month from the next date fixed for hearing of the said appeal without granting any unnecessary adjournments to either of the parties.

It is, however, made clear that this Court has not entered into the merits of the claims and counter-claims of the respective parties and the learned Judge of the First Appellate Court shall be free to decide the same in accordance with law after giving an opportunity of hearing to the respective parties.

The learned Registrar (Judicial Service), High Court at Calcutta is directed to circulate this order to the Judicial Officers who have been vested with the power to

decide appeals under Section 9 of the 1971 Act through the learned District Judges forthwith for their future guidance.

With the above observations CO 1167 of 2024 stands disposed of.

In Re:-C.O.1186 of 2024

This application under Article 227 of the Constitution of India is at the instance of Syama Prasad Mookerjee Port, Kolkata praying for a direction upon the learned Judge, 3rd Bench, City Civil Court at Calcutta to dispose of the M. A. No.10 of 2009 expeditiously.

It appears from the order sheets that May 15, 2024 was fixed for hearing of the appeal.

Mr. Dutta, learned senior advocate appearing for the petitioner submits that in the meantime the appeal was heard in part and the next date for further hearing of the appeal has been fixed on May 20, 2025.

In the light of the said submission made by Mr. Dutta, learned senior advocate, CO 1186 of 2024 stands disposed of by requesting the learned Judge, 3rd Bench, City Civil Court at Calcutta to take up the appeal being M.A. No.10 of 2009 for further hearing on the next date fixed i.e. on May 20, 2025 and to make an endeavour to dispose of the same as expeditiously as possible but preferably within a period of one month from the next

date fixed without granting any unnecessary adjournments to either of the parties.

It is, however, made clear that this Court has not entered into the merits of the claims and counter-claims of the respective parties and the learned Judge of the of the First Appellate Court shall be free to decide the same in accordance with law after giving an opportunity of hearing to the respective parties.

This Court finds that the appeal was filed in the year 2009.

In Re:- C.O. 1170 of 2024

This application under Article 227 of the Constitution of India is at the instance of Syama Prasad Mookerjee Port, Kolkata praying for a direction upon the learned Additional District Judge, 1st Court at Alipore to dispose of the P.P. Appeal No.4 of 2006 expeditiously.

From the order sheets appended to this application, this Court finds that February 28, 2024 was fixed for further argument in P.P. Appeal No.4 of 2006.

Mr. Dutta, learned senior advocate appearing for the petitioner submits that the appeal was heard in part on April 16, 2025 and the next date for hearing of the said appeal has been fixed on May 19, 2025.

In the light of the submissions made by Mr. Dutta, learned senior advocate for the petitioner, CO 1170 of 2024 stands disposed of by requesting the learned Additional District Judge, 1st Court at Alipore to take up

the hearing of the P.P. Appeal No.4 of 2006 on the next date fixed i.e. on May 19, 2025 and to make an endeavour to see that the said appeal is disposed of as expeditiously as possible but preferably within a period of one month from the next date fixed without granting any unnecessary adjournments to either of the parties.

It is, however, made clear that this Court has not entered into the merits of the claims and counter-claims of the respective parties and the learned Judge of the First Appellate Court shall be free to decide the same in accordance with law after giving an opportunity of hearing to the respective parties.

There will be no order as to costs.

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

(Hiranmay Bhattacharyya, J.)