

15.05.2025
Item no. 6.
Court No.19.
AB

W. P. A. 8757 of 2025

**Fairfax Industries Limited
Vs
District Collector & Khas Mahal Officer, South
24 Parganas & Others**

Mr. Sardar Amjad Ali, Sr. Adv,
Mr. Puranjan Palfor the Petitioner.

Md. T. M. Siddiqui,
Ms. Debdooti Dutta
.....for the State Respondents.

Mr. Shareq Siddiqui,
Mr. Shahnawaz Alam.....for the Respondent No.7

Mr. Tapas Kr. Deyfor the Respondent No.3.

Mr. Prithu Dudhoria.....for the Respondent No.4

Mr. Harsh Tiwari,
Mr. Aurin Chakraborty,
Mr. Hamidul Haque,
Mr. Bhupendra Gupta
.....for the Respondent No.5, 6.

Mr. Biswajit Mukherjee,
Ms. Piyali Sengupta,
Ms. Paroma Senguptafor the K.M.C.

1. The affidavit of service as filed today on behalf of the writ petitioner is taken on record.
2. Learned advocate appearing on behalf of the Respondent/State and its functionaries, i.e. respondent nos.1, 8 and 9 has submitted a report dated April 28, 2025 prepared by the Officer in charge, Watgunge Police Station. Let the report dated April 28, 2025 be taken on record.

3. In course of hearing, Mr. Ali, learned senior advocate appearing on behalf of the writ petitioner, at the very outset, requests this Court to peruse the prayers as made by the writ petitioner in the instant writ petition. It is candidly submitted by Mr. Ali that in the event the prayer (c) of the instant writ petition is allowed, the very purpose of filing the instant writ petition will be sub-served.
4. In prayer (c) of the instant writ petition, the writ petitioner has prayed for issuance of appropriate writ/writs against the respondent no.8, that is the Officer in charge of the Watgunge Police Station, to render all assistance to the writ petitioner firm for peacefully carrying on their business in premises no.2/5, Nritya Ghosh Street, within P.S. Watgunge under Holding No.7 of Mouja Addya Ganga Jheel, District 24 Parganas (South) restraining any interference by any person without any authority or appropriate order from any Court of competent jurisdiction.
5. In course of his submission, Mr. Ali, at the very outset, draws attention of this Court to pages 41 to 67 of the instant writ petition being a copy of a registered deed. It is submitted that from the said copy of the registered deed, it would reveal that the writ petitioner was inducted as a tenant in the aforementioned property which is a

leasehold property wherein the original lessee was granted permission to induct sub lessee. At this juncture, Mr. Ali again draws attention of this Court to pages 70 to 74 of the instant writ petition being copies of his rent receipts on account of rent paid by the writ petitioner to his immediate landlord.

6. Drawing attention of this Court to pages 75 and 76 of the instant writ petition, it is submitted by Mr. Ali that in terms of a notice under Section 226(3) of the Income Tax Act, 1961, in a garnishee proceeding, the respondent no.4 authority directed the writ petitioner to pay his rent directly to the said authority instead of his immediate landlord and pursuant to such direction of the authority, the writ petitioners are paying rent to the respondent no.4 authority which would be evident from pages 77 to 86 of the instant writ petition.
7. At this juncture, it is submitted by Mr. Ali that it is the case of the writ petitioner that all on a sudden the private respondent nos.5 to 7 appeared in the scene and claimed to be the owner/developer of the property wherein the writ petitioner was carrying on his business in a godown and the said private respondents are making attempt to interfere with the running of

smooth business by the writ petitioner in the said tenanted property.

8. It is thus submitted that since the writ petitioner is in settled possession of the aforementioned property and thus appropriate writ may be issued against the respondent no.8 commanding him to render all assistance so that the writ petitioner should not be evicted without due course of law and/or the writ petitioner's business in the said premises should not be hampered also except without due course of law.
9. In course of his submission, learned advocate appearing on behalf of the Respondent/State and its functionaries, at the very outset, draws attention of this Court to the report dated April 28, 2025. It is submitted that from the said report dated April 28, 2025, as submitted by the Officer in charge, Watgunge Police Station, it would reveal that at no point of time the writ petitioner ever approached the respondent no.8 authority complaining any interference in his business by any person whatsoever.
10. Per contra, Mr. Tiwari, learned advocate appearing on behalf of the respondent nos.5 and 6 disputed the contention as raised on behalf of the writ petitioner. It is submitted by Mr. Tiwari that from the photocopy of the deed as has been annexed with the instant writ petition, it would

reveal that the writ petitioner's status in the said property is really doubtful inasmuch as it is not at all clear as to how the writ petitioner came into possession of the property in question.

11. It is further argued by Mr. Tiwari that the writ petitioner is not at all in occupation of the property in question and, therefore, there cannot be any justification to entertain the instant writ petition.
12. It is further contended by Mr. Tiwari that the respondent nos.5 and 6 being the developers of the property in question have been authorized by the original owner to develop the property and it is further argued that the property in question is not at all a khas mahal property.
13. Considering the entire materials as placed before this Court and also considering the submissions of the learned advocates for the contending parties, it appears to this Court that admittedly, a report has been received from the respondent no.8 authority that at no point of time the writ petitioner approached before the respondent no.8 authority complaining interference from any person. However, on careful consideration of the entire materials as placed before this Court, it appears to this Court that at least some documents have been placed before this Court to establish that the writ petitioner is in settled

possession of the property in question, that is in a godown located in premises no. 2/5 Nritya Ghosh Street.

14. It is settled principle of law that even an unlawful occupier and/or trespasser cannot be evicted without due course of law. Such being the position, this Court finds that justice would be sub-served if a writ is issued against the respondent no.8 to ensure that the present writ petitioner should not be interfered from carrying on its business from the godown situated in premises no.2/5, Nritya Ghosh Street, within P.S. Watgunge under Holding No.7 of Mouja Addya Ganga Jheel, District 24 Parganas (South), except without due course of law.
15. In view of such and while disposing the instant writ petition, this Court directs the respondent no.8 to ensure that the writ petitioner should not be disturbed by any person and/or any authority from carrying on its business from the godown located in premises no. 2/5, Nritya Ghosh Street, within P.S. Watgunge under Holding No.7 of Mouja Addya Ganga Jheel, District 24 Parganas (South) except due course of law.
16. Before parting with, it is, however, made clear that while disposing the instant writ petition, this Court has made no observation with regard

to the right, title and interest of the present writ petitioner in respect of the aforementioned godown situated at premises no. 2/5, Nritya Ghosh Street, within P.S. Watgunge under Holding No.7 of Mouja Addya Ganga Jheel, District 24 Parganas (South) and thus, the said point is kept open.

17. Liberty is given to the learned advocate on record for the writ petitioner to communicate the server copy of this order to the respondent no.8 for his immediate compliance. The respondent no.8 is directed to act on the basis of the server copy of this order.
18. Since while disposing the instant writ petition the affidavits have not been called for, the allegations as made in the instant writ petition are deemed to have been denied.
19. With the aforementioned observation, the instant writ petition is disposed of.
20. Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)