

0608
2025

WEDNESDAY

Court : MB-07
Item : DL-21-22
Bench : SINGLE
Matter : WPA
Status : DO
ID : 266057
AR : NANDY

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 9386 OF 2009
CAN 7 OF 2025
with
WPA 1504 OF 1988

STONE INDIA LIMITED & ANR.
VS.

BOARD OF TRUSTEES FOR THE PORT OF KOLKATA & ORS.

MR. SAPTANGSU BASU, SR. ADVOCATE
MR. ANIRBAN RAY, SR. ADVOCATE
MR. DEBJIT MUKHERJEE, ADVOCATE
MR. RISHAV BANERJEE, ADVOCATE
MS. PRIYANKA JANA, ADVOCATE
MR. AISHWARYA KUMAR AWASTHI, ADVOCATE

.....for the Petitioner No. 1

MR. KISHORE DUTTA, LD. ADVOCATE GENERAL
MR. SNEHASHIS SEN, ADVOCATE

.....for the Kolkata Port Trust

1. Challenging the justifiability of one notice dated 17.09.2008 and a communication dated 16.02.2009, the present writ-petitions were preferred.
2. During the course of the hearing, the Officer-on-Special Duty and Estate, being the authorised signatory of respondent no. 1, filed a supplementary affidavit. In the said affidavit, it was noted that the present writ petition had been filed to challenge the eviction proceedings initiated by the learned Estate Officer under Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, against the petitioner company by the Port Trust. Paragraph 8 of the supplementary affidavit reads as follows:
"8. It is stated that, considering the documents on record and the written submissions filed on behalf of the respective parties, the learned Estate Officer, by way of its order dated 30th July, 2025 held that the ejectment notices issued by the Port Trust in respect of the subject plates of land cannot be said to have been validly issued and further observed that the occupation of Stone India Limited cannot be said to be unauthorized."
3. Therefore, a bare perusal of the supplementary affidavit reveals that the writ petition has, in fact, become infructuous.
4. Referring to the contents of paragraph 8, Mr. Basu,

learned Senior Advocate appearing for petitioner no. 1, submits that the stand taken by the respondent places the petitioner in the same position it occupied prior to the initiation of the eviction proceedings. Accordingly, he contends that the petitioner company ought to be permitted to continue in possession and enjoyment of the allotted space, upon payment of a sum of ₹10,39,64,812/- (Rupees Ten Crores Thirty-Nine Lakhs Sixty-Four Thousand Eight Hundred and Twelve only), along with lease rent as per the terms and conditions agreed upon in the lease deed.

5. Mr. Dutta, learned Senior Advocate representing the Port Trust, submits that since the writ petition has become infructuous, no further orders are necessary in this matter. However, he submits that the petitioner may continue to possess the space previously allotted to them upon payment of the aforementioned amount and the scheduled rent.
6. As mentioned earlier, in view of the subsequent developments, the writ petition has become infructuous, and no further order is required to be passed in this matter.
7. Mr. Dutta requested the expunction of paragraph 5 from the order dated 14.05.2025, contending that it may adversely affect the concerned officials. The order dated 28.04.2025 in this writ petition was passed based on submissions made by Mr. Jishun Saha, learned Senior Advocate appearing on behalf of the respondents on that date. The order dated 28.04.2025 recorded that *“Mr. Saha submits, upon instruction, that if the Court directs the Port Trust to allow the group of individuals currently operating the company under its original name to continue as tenants upon payment of the rent and an amount or Rs.10,39,64,812/-, they should be allowed to continue for the residual term of the lease.”*
8. Subsequently, the respondents insisted on listing the matter again for consideration of deleting the words

"upon instruction" from the order dated 28.04.2025. This submission, made on behalf of the Port Trust Authority, gave the Court the impression that the respondents were reluctant to take responsibility for the submissions made by Mr. Saha. Consequently, the order dated 28.04.2025 was recalled. However, paragraph 5 of the order dated 14.05.2025 recorded that the officials handling the case concluded that allowing the said order to stand might expose them to disciplinary action.

9. I am of the view that the observation made in paragraph 5 of the order dated 14.05.2025 is otiose and redundant. Accordingly, paragraph 5 of the said order is hereby expunged.
10. With these observations and order, both the writ-petitions and the connected applications are disposed of.

(PARTHA SARATHI CHATTERJEE, J.)

