

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

BEFORE:

The Hon'ble Justice Ravi Krishan Kapur

W.P.A. No. 15988 of 2016

With

IA No. C.A.N. 4 of 2024

Md. Hasmat Ali & Ors.

Vs.

The Government of West Bengal & Ors.

For the petitioner : Mr. Subhojit Saha, Adv.

For the State : Mr. Santanu Kumar Mitra, Sr. Govt. Adv.
Mr. Manas Sadhu, Adv.

For the WBSEDCL : Mr. Sumit Ray, Adv.

Judgment on : 25.02.2025

Ravi Krishan Kapur, J.

1. The petitioners challenge a notice dated 27 August 2014 whereby the petitioners have been directed to vacate the subject premises by removing any large animals including cattle and for consequential reliefs seeking restoration of the electricity connection to the subject premises.
2. Briefly, the petitioners and their ancestors have been engaged in the production, distribution and sale of milk and milk production. For such purposes, the petitioners have and still are the owners of cattle and consequentially khatahs within the meaning of the West Bengal Cattle Licensing Act, 1959. Section 9 of the Act contemplates that the State Government may by notification declare areas which are meant for the purposes of keeping cattle.

3. Pursuant to the above enactment, the State Authorities had sought to rehabilitate the petitioners by removing the cattle from within the city of Kolkata to GL No.49- Ganganagar-24 Parganas which was used for the Cattle Re-Settlement Project and had been initiated by the State in the year 1992. Accordingly, individual and separate bond license agreements were executed by and between the State Government and the petitioners and some of their predecessors in interest. Under such agreement, the petitioners were obliged to pay necessary electricity bills for electricity consumed by them. Each of the respective allotment letters also provided for the petitioners to vacate the premises within one year from the date of execution of the bond i.e. from 1 April, 2000 to 31 March 2001.
4. It is contended on behalf of the petitioners that, the impugned notice has been issued without authority of law and is in violation of the principles of natural justice. The petitioners as licensees cannot be evicted without due process of law. In any event, the disconnection of the electricity to the premises is unreasonable and in violation of all principles of fairness. It is also contended having accepted rent post 1 April 2001, the issuance of the impugned notice is contrary to the understanding by and between the State and the petitioners. The petitioners allege to have an unfettered right to remain in possession and cannot be evicted without due process of the law. It is further contended that post 2016, the State authorities have intentionally and deliberately not accepted any rent. In this background, the impugned notice is a circuitous attempt of the State to evict the petitioners. As such, the entire action of the State in issuing the impugned notice demonstrates extreme high handedness and is without any authority of law. In any event, the State is bound to provide

alternative land to the petitioners which it has failed to do. In support of such contentions, the petitioner relies on *Bhuneswar Prasad & Anr. vs. United Commercial Bank & Ors.* (2007) 7 SCC 232, *Anil Gupta & Ors. vs. The State of West Bengal & Ors* (MAT 1494 of 2018), *Sandhya Das (Khan) & Ors. vs. Manik Banik & Ors.* (2011) 1 CHN 741 and *Samir Sobhon Sanyal vs. Tracks Trade Pvt. Ltd & Ors.* (1996) 4 SCC 144.

5. On behalf of the State authorities, it is submitted that this writ petition is not maintainable. There is no public element involved in the writ petition and the disputes raised by the petitioners are purely contractual in nature. There are also disputed questions of fact involved in the writ petition and the same cannot be adjudicated in a summary proceeding. Clause 6 of the licence agreements clearly stipulate that the license was for a fixed time period which expired as far back as on 31st March 2001. The allotment in favour of the petitioners does not give the petitioners the right to remain in possession for a period of more than 20 years after expiry of the contractual period. In any event, in view of section 3 of the West Bengal Cattle Licensing Act, read with sections 343 and 344 of the West Bengal Municipal Act 1993, the petitioners can have no vested right to remain in possession. The impugned notice is not justiciable since the same is a policy decision taken by the State to have the subject premises vacated. In support of such contentions, the respondent State relies on *Sadananda Halo and Ors. v. Momtaz Ali Sheikh and Ors.* (2008) 4 SCC 619, *State of Gujarat vs. M.P. Charitable Trust*, 1994 SCC (3) 552, *Pimpri Chinchwad Municipal Corporation and Ors. vs. Gayatri Construction Company and Anr* (2008) 8 SCC SCC 172, *The Bharat Coking Coal Ltd. & Ors. vs. AMR Dev Prabha & Ors* AIR 2020 SC 466.

6. It is well settled that where a constitutional right is infringed filing of a writ petition would ordinarily be the most suitable remedy. However, when the grievance is solely with regard to purely contractual disputes or obligations, then Article 226 is not an appropriate remedy. [*Joshi Technologies International Inc vs. Union of India and Ors. (2015) 7 SCC 728 and Bareilly Development Authority vs. Ajai Pal Singh (1989) 2 SCC 116.*]
7. The grievance of the petitioners pertain to their respective licence arrangements which were executed with the intention to provide temporary shelter to the cattle belonging to the petitioner from the urban area of Kolkata on agreed terms and conditions. Each of the licence agreements stipulates that the same had been granted for a period of one year from the date of issuance of their respective letters i.e. from 1 April, 2000 to 31 March, 2001. The temporary arrangement to provide cattle sheds cannot be converted to an absolute right in perpetuity. In fact, the grant was obviously for a temporary period and did not give the petitioners any right, title or interest to remain in the premises or any portion thereof *ad infinitum*. Clause 13 of the bond categorically stipulates that the petitioners were obliged to vacate the premises as and when the State desires. In the absence of a valid license under section 3 of the West Bengal Cattle Licensing Act 1959, there is no authority which the petitioners have been able to justify to remain in possession [*Pimpri Chinchwad Municipal Corporation and Ors. vs. Gayatri Construction Company and Anr (Supra)*]. Obviously, in the light of the changed the demography of the city, the decision to issue the impugned notice is a policy decision which is not justiciable by the Writ Court. There is no duty to act fairly in contractual disputes of this nature. There is also no

question of the respondent State having acted in violation of principles of natural justice.

8. In conclusion, there is no legally enforceable right which the petitioners have been able to demonstrate, warranting interference by this Court. In any event, the dispute between the petitioner and the State has no element of public interest which requires interference. [*Air India Ltd. vs. Cochin International Airport Ltd and Ors.* (2000) 2 SCC 617 and *Raunaq International Ltd. I.V.R Construction Ltd.* (1999) 1 SCC 492.]
9. The disputes between the parties are purely private civil disputes and are not amenable before a Writ Court. [*Sadananda Halo and Ors. v. Momtaz Ali Sheikh and Ors.* (*Supra*) and *State of Gujarat vs. M.P. Charitable Trust* (*Supra*)].
10. The writ petition fails on the ground of maintainability and the same stands dismissed. Liberty is granted to the petitioners to seek appropriate civil reliefs, if so advised in accordance with law. The State respondents are also at liberty to initiate appropriate steps both in respect of outstanding occupational charges or any dues insofar as unpaid electricity bills are concerned. Any payments made by the petitioner during the pendency of the writ petition would stand to the credit of the petitioners. The interim order stands vacated. With the above directions, WPA 15988 of 2016 stands dismissed. Accordingly, all connected applications also stands dismissed.

(RAVI KRISHAN KAPUR, J.)