

AD - 6
Ct No.10
02.09.2025
(SSS)

FA 114 of 2025
With
CAN 2 of 2025
With
CAN 3 of 2025

Sri Subodh Kumar Samanta
Vs.
The Secretary, W.B.S.E.D.C.L., Bidyut Bhavan and Anr.

Mr. Probal Mukherjee,
Mr. Arun Shaw, Advs.
.....for the appellant.

Mr. Abhratosh Majumdar, Ld. Snr. Adv.,
Mr. Puspall Chakraborty,
Ms. Prisanka Ganguly, Advs.
...for the applicant/respondent/defendant no. 2

1. The present application is not in the nature of review/recall but in effect, a modification application and as such, we are of the opinion that the application for condonation of delay is redundant. Accordingly, CAN 3 of 2025 is disposed of in the light of the above observations.
2. The present application has been taken out seeking a modification of the judgment dated January 22, 2025 whereby FAT 269 of 2022 was allowed on contest, thereby setting aside the impugned judgment and decree and granting eviction in favour of the plaintiff/appellant against the defendants/respondents, the latter being the present applicant. In the said judgment and

decree, this court had granted 90 (ninety) days' time to the judgment debtors/applicants to vacate the decretal premises.

3. Learned Senior counsel appearing for the applicant in the modification application contends that in view of the prolonged paraphernalia involved in setting up a fresh godown, which was the purpose for which the suit property was being used by the applicants, at least two years' time from the date of passing of the judgment i.e. from January 22, 2025 is required to complete the process of shifting. It is pointed out that the WBSEDCL is a public utility service and it requires to follow a transparent tender process before awarding the work of construction of the new godown, where the applicants seek to shift, to a third party. It is further submitted that the decretal premises was being used as a godown for storing equipment, which is essential for distribution of electricity to several districts of West Bengal and, as such, its functioning cannot be stopped abruptly.
4. A proposed timeline has been given at page 28 of the application, from which it appears that the time to be taken for invitation and finalization of the tender process and ancillary activities would take four months, the development of the land for the proposed store another six months, the

necessary civil work for construction of sheds, office building etc. eighteen months, further four months for necessary electrical works etc. and another two months for handing over of the newly constructed zonal store and shifting of existing materials from the old store to the new store.

5. Learned Senior counsel appearing for the appellant/opposite party vehemently opposes the application and submits that the applicants cannot take undue advantage of their own delay. It is pointed out that the application was filed after expiry of the 90 days' stipulated period in terms of the judgment dated January 22, 2025. It transpires, it is submitted, that no steps whatsoever have been taken by the modification applicants to implement the judgment and decree of this court.
6. We actually find it rather surprising that apart from indentifying a land, as per the averments made in the application, no further steps for floating a tender etc. has yet been taken by the judgment debtors/modification applicants till date. However, taking into consideration the fact that the WBSEDCL, being a public utility service and an instrumentality of the State, for all practical purposes, would have to adhere to a transparent procedure, which involves some amount of delay, we of the considered opinion that

the time of ninety days initially granted for vacating the property to the appellants/applicants should be extended for a further period of six months from date, which would take the total time of shifting to more than a year from the date of this court's judgment and decree.

7. However, in view of the harassment and inconvenience being suffered by the appellants/opposite party due to the delay involved, the modification applicants ought to pay occupation charges to the appellant / opposite party during the further period of occupation after the expiry of ninety days from the date of the judgment.
8. Since the land in question is of about 58 cottahs in area, we deem it a conservative estimate to put the occupation charges payable at Rs.1,00,000/- per month.
9. In view of the above, CAN 2 of 2025 is allowed on contest, thereby extending the time for the respondents / modification applicants to vacate the decretal premises for a further period of six months from this date.
10. The modification applicants shall pay monthly occupation charges at the rate of Rs.1,00,000/- to the appellant / opposite party by the last day of each month, throughout the period of occupation.

11. The first of such current payments, for the month of September, 2025, shall be made by the respondents / applicants to the appellant / opposite party by September 30, 2025 and thereafter, by the last day of each succeeding month for such current month. The arrear occupation charges, calculated from May, 2025 till August, 2025, shall be paid in two equal monthly instalments; the first of which instalments shall be paid by September 30, 2025 and the next by November 31, 2025.

12. There will be no order as to costs.

13. The parties and all concerned shall act on the server copy of this order, duly downloaded from the official website of this court.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)