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09.04.2025
Ct. No. 551
Jayanta

WPA 27781 of 2024

Abdul Hoque Mollah
vs.
Union of India & Ors.

Ms. Joyee Maiti
Ms. Arpita Paul
Ms. Umme Habiba Khatun
.....For the Petitioner.

Mr. Animesh Mukherjee
.....For the Respondents/E.R.

Affidavit-of-service filed today be kept on record.

The petitioner lays challenge to a notice dated November 8, 2024 issued by the Station Manager, Dakshin Barasat, Eastern Railway whereby the petitioner has been asked to vacate the Cycle/Motor Cycle/Scooter parking lots being DBT-1 and DBT-4.

The petitioner invites the attention of the Court to a notice dated November 3, 2022 whereby the schedule of payment of the licensee fees for the purpose of running/operating the aforesaid Cycle/Motor Cycle/Scooter stand being DBT-4 at Dakashin Barasat Railway Station was brought to the notice of the petitioner and the petitioner was requested to pay the licensee fees for the period of August 22, 2022 to November 10, 2022.

The petitioner further draws the attention of the Court to certain payments made by the petitioner allegedly in respect of third, fourth, fifth and sixth quarters at page 23 of the writ petition It is further

submitted that the writ petitioner is willing to make good the default by paying arrears and that there would be no further default. It is submitted that the Respondents should be restrained from evicting the petitioner upon receipt of the payments as aforesaid.

The learned advocate appearing for the respondents opposes the writ petition and submits that although the payments have been stated to have been made in respect of third, fourth, fifth and sixth quarters as would be appearing from page 23 of the writ petition, but no payment was evidently made thereafter and as such the petitioner was issued the notice dated August 16, 2024 which was duly received by the petitioner on August 21, 2024.

It has been further submitted that a further notice dated August 27, 2024 was also issued to the petitioner but receipt of the same was not acknowledged by the petitioner. It has been submitted that the petitioner has been illegally occupying the said space/parking lot despite the petitioner's license having been terminated due to default on the part of the petitioner.

The Learned Advocate for petitioner submits in response that the petitioner had made a representation dated November 11, 2024 to the respondent Railway authorities which has not yet been considered and requests that direction may be made upon the

respondent Railway authorities to consider the said representation.

Learned advocate appearing for the respondent opposes such request.

The learned advocate appearing for the respondents has also produced before the Court a copy of the agreement between the petitioner and the respondent to show that the same contains an arbitration Clause and submits that the petitioner may be relegated to the Arbitral forum for arbitration of the disputes that might have a reason between the parties.

The learned advocate appearing for the petitioner disputes such issues and submits that no such agreement was handed over to the petitioner.

A copy of the instructions along with the documents handed up to the Court by the learned Advocate for Railway authorities is taken on record.

Having heard the learned advocates for the respective parties and having perused the material on record, this Court is of the view that no relief can be granted to the petitioner in the instant writ petition.

It appears from the material on record that the license of the petitioner for operating the aforesaid parking space has been terminated by the Railway authorities being upon default being committed by the petitioner.

This is a case of admitted default.

In view of the fact that the respondent has already taken a step to terminate the petitioner's license and notice of vacating of the said parking lot has been issued by the respondent, this Court cannot accept the writ petitioner's request to injunct the Respondents from evicting the petitioner after directing the Respondents to accept the arrears of the license fees. No purpose will also be served by directing the said respondent to consider the representation dated November 11, 2024 as requested for by the learned advocate for the petitioner in view of the fact that the license has already been terminated and notice to quit and vacate has also been issued by the Respondents.

The writ petition is, therefore, not entertained.

The writ petitioner is free to avail of such other remedies that may be available to the writ petitioner in accordance with law.

The Learned Advocate for the Railway authorities shall supply a copy of the agreement stated to have been entered into between the petitioner and the respondent Railway authorities to the learned advocate appearing for the petitioner.

The writ petition being WPA 27781 of 2024, is dismissed.

There shall, however, be no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible

(Om Narayan Rai ,J.)