

10.07.2025
Item No.2
Court No.01
S.Bag(AR(CR)

**In the High Court at Calcutta
Circuit Bench at Jalpaiguri**

**WPA/772/2022
IA NO: CAN/2/2024**

**DLX LTD AND ANR
VS
STATE OF WEST BENGAL AND ORS.**

Mr. Joyjit Choudhury, Ld. AAG
Mr. Nabankur Paul, Adv.
...for the State

None appears on behalf of the petitioner nor is any adjournment prayed for on their behalf even in the second call.

The matter was heard initially on 7th July, 2025, when after hearing both the parties on the merits, this Court had opined “prima facie there is a serious issue of maintainability and bona fides which required to be heard”. Thereafter, the matter was listed on 8th July, 2025, when the petitioners remained unrepresented. Today, the petitioners have also chosen to be unrepresented. There is also no prayer for adjournment. In view of this Circuit ending on 11 July, 2025, it is obvious that the petitioners are playing ducks and drakes and this cannot be countenanced.

Briefly, the petitioners who are running the “Glenburn Tea Estate” challenge the

communications dated 17 March, 2021, 30 March, 2021 and 6 December, 2021 issued by the respondent no. 4 being the Divisional Forest Officer, Darjeeling Forest Division, Government of West Bengal. By the impugned communications, the State respondents had issued a show cause notice to the petitioner alleging that trees were being cut down at the subject tea estate without prior permission of the Government, which was *inter alia* in violation of clause 4(b) and 6(c) of the lease deed dated 26 September, 2008. Significantly, a portion of the land under the subject lease agreement is admittedly forest land and the fact of trees being felled is admitted.

For convenience, clauses 4(b) and 6(c) of the lease deed provides as follows:

4(b). That in respect of Land comprised in a forest the Lessee shall be subject to the Control and supervision of the State Government.

6(e). That the Lessee shall not fell trees in land comprised in a forest in a tea garden without prior permission of the State Government and if so required by the State Government shall submit a plan for the maintenance and felling of trees.

The short question which arises for consideration in this writ petition is whether the petitioners who had been inducted by virtue of the lease dated 26 September, 2008,

have any right whatsoever in respect of the trees which are standing on forest land at the demised premises.

In this context, sections 5(1)(a)(a) and 6(2) of the West Bengal Estate Acquisition Act, 1953 provide as follows:

5.(1)(aa) All lands in any estate comprised in a forest together with all rights to the tress therein or to the produce thereof and held by an intermediary or any other person shall vest in the State;

6.(2) An intermediary who is entitled to retain possession of any land under sub-section (1) shall be deemed to hold such land directly under the State from the date of vesting as a tenant, subject to such terms and conditions as may be prescribed and subject to payment of such rent as may be determined under the provisions of this Act and as entered in the record of rights finally published under Chapter V except that no rent shall be payable for land referred to in clause (h) or (1):

Provided that if any tank fishery or any land comprised in a tea garden, orchard, mill, factory or workshop was held immediately before the date of vesting under a lease, such lease shall be deemed to have been given by the State Government on the same terms and conditions as immediately before such date subject to such modification therein as the State Government may think fit to make.

Upon filing of the writ petition, various orders have been passed by different Coordinate Benches. By an order dated 8th February, 2023, a Learned Single Judge had directed the respondent no. 4 to initiate an

auction process within two weeks from the date of communication of the order and complete the auction process at the earliest in accordance with law for the sale of the trees. The sale proceeds from the above auction were directed to be deposited with the Learned Registrar, Circuit Bench at Jalpaiguri who was further directed to open an interest bearing fixed deposit account with a nationalized bank.

The contention of the petitioner is that a portion of the land comprised of forest land and had been privately grown and cultivated by the petitioner no. 1 and its predecessor and that the petitioners had conceived of a scientific scheme which involved the felling of such trees and consequential disposal thereof.

The jurisdictional question which arises for consideration is whether the Writ Court is the appropriate forum to decide whether the petitioner has any legal entitlement in respect of the trees situated in forest land. This involves an interpretation of the lease deed and whether the same grants any right to the petitioner being a lessee under the State Government. This would also require an examination of the rights of the parties *vis-a-*

vis the West Bengal Estate Acquisition Act, 1953.

The petitioner is enjoying orders in this petition without any adjudication of the above issues all of which go to the root of maintainability of the writ petition.

There is also a strong underlying element of public interest involved in entertaining such writ petitions which not only cause environmental hazards but also impact the lives of future generations. The possibility of indirectly legalizing a strictly prohibited and illegal act cannot also be ruled out. Despite the tacit approval of the State authorities in whatever exercise is being undertaken, the question which begs for consideration is how many trees are actually being felled and for how long?

The aspect of prior approval from the Ministry of Environment, Forest and Climate Change (MoEFCC) being essential before undertaking the felling of trees may also require examination. Any such exercise without the consultation of the Ministry of Environment, Forest and Climate change would tantamount to fraud on statute. [Section 2 of The Forest (Conservation) Act, 1980]

As such, it is fair to assume that the repeated non-appearance of the petitioner is intentional, calculated and with oblique motive. The petitioner may have well been expecting an order of “Adjourned to next Circuit”.

In view of the deliberate and repeated non-appearance of the petitioners, the writ petition being WPA/772/2022 alongwith the interlocutory application CAN/2/2024 stands dismissed for default. All interim orders stand vacated.

The Registrar, Jalpaiguri is directed to refund the entire sale proceeds alongwith any accrued interest to the State of West Bengal forthwith. Liberty is granted to the State respondents to act in furtherance of the impugned communications including the show cause notice dated 6 December 2021 in accordance with law and bring the same to a logical conclusion.

Let a copy of the order be made available to the Registrar, Jalpaiguri.

(RAVI KRISHAN KAPUR, J.)