

ORDER

OC-29

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP-COM/436/2025
INDUS TOWERS LTD.
VS
MASUD ALI AND ORS.

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
Date: 4th August 2025.

Appearance:

Mr. Sakya Sen, Sr. Adv.
Mr. Sunil Kr. Gupta, Adv.
Mr. Rishav Deb Barman, Adv.
...for petitioner.

1. The affidavit of service is taken on record.
2. Upon inventorization by the petitioner, as per the liberty granted by this Court, a report has been prepared. The details of the inventory are available from the report. The mobile tower is not in operation, but the equipment can be used in another project. The petitioner wants to vacate the premises over which the mobile tower had been installed. The petitioner contends to have terminated the leave and license agreement. The respondents/licensors are allegedly obstructing the petitioner from removing the machines and equipments which the petitioner wishes to utilize at another location. It is further stated that the license fee has already been paid up to the date of termination and the respondents did not have any other claim against the petitioner. The petitioner also approached the concerned police station with a complaint that, the

respondents were physically obstructing the petitioner from removing the mobile tower along with the machines and gadgets.

3. In order to ascertain the condition of the tower, machines and equipments, this Court had directed the petitioner's engineer to inspect and make an inventory. This Court is of the view that the dispute is restricted to the validity of the termination of the leave and license agreement by the petitioner and whether the respondents will be entitled to any claim towards license fee or damages, in the event it is found that the termination was contrary to the leave and license agreement. The respondents do not have any right to obstruct removal of the tower and also do not have any right over the machines and equipments, of which the petitioner is the sole owner.
4. Despite service on earlier occasions, the respondents did not appear. Substituted service was effected by paper publications. The respondents did not appear in spite of such paper publications. They do not appear today, despite further service.
5. When the inspection was carried out in the premises, the respondents were surely aware. The local police station was also informed about the inspection.
6. This Court finds that the machines and equipments which are under the open sky are subject to natural wear and tear and damage. From the photographs, it appears that the equipment, gadgets and machineries are already decaying. Unless protected, the petitioners will suffer irreparable

loss and injury, inasmuch as, the expensive machines will remain unutilized and shall sustain such damage.

7. Under such circumstances, the application is disposed of by allowing the petitioner to dismantle the tower and remove the machines and equipment. The petitioner will seek police assistance, if necessary. The equipments and gadgets shall be kept in safe custody of the petitioner for a period of three months or till further orders that may be passed by the appropriate forum / arbitrator, whichever is earlier.
8. The petitioner shall take immediate steps for appointment of an arbitrator. It appears to the Court that the arbitration clause has already been invoked, but the letter has returned un-served.
9. AP-COM/436/2025 is disposed of.

(SHAMPA SARKAR, J.)