

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP-COM/437/2025
INDUS TOWERS LTD.
VS
SHAHANUR ALAM

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 respondent/licensor is 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 respondent did not have any other claim against the petitioner. The petitioner also approached the concerned police station with a complaint that, the

respondent was 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 respondent 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 respondent does not have any right to obstruct removal of the tower and also does not have any right over the machines and equipments, of which the petitioner is the sole owner.
4. Despite service on earlier occasions, the respondent did not appear. Substituted service was effected by paper publications. The respondent did not appear in spite of such paper publications. The subsequent service upon the direction of this Court on the last occasion could not be effected as the addressee/respondent did not accept the letter when the postal authority approached him. He raised a dispute with regard to the address.
5. When the inspection was carried out in the premises, the respondent was surely aware. The local police station was also informed about the inspection.

6. This Court holds 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 severe 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 the 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/437/2025 is disposed of.

(SHAMPA SARKAR, J.)