In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Partha Sarathi Sen

WPA 24063 of 2026

Metal Box India Limited and Anr.

VS.

Syama Prasad Mookerjee Port, Kolkata

(erstwhile Kolkata Port Trust) and Anr.

For the Petitioners	:	Mr. Debjit Mukherjee Mr. Meghajit Mukherjee Mr. Prantik Gorai Ms. Sonia Das
For the respondent No.1	:	Mr. Kishore Dutta, Sr. Adv. Mr. Abhishek Banerjee
Heard on and Judgment on	:	06.10.2026

Partha Sarathi Sen, J.:-

1. The subject matter of the instant writ petition is the order dated 13.07.2026 as passed by the respondent No. 2/authority in proceedings No. 1127/D of 2011 whereby and whereunder the said authority directed the writ petitioners to pay a sum of Rs.1,39,086.54/- towards rental dues for the period 01.08.2006 to

12.11.2007 to the respondent No. 1/authority along with simple interest 7.05% per annum with effect from the date of incurrence of liability till 21.06.2015 together with compound interest @7.05% per annum till the actual payment.

2. For effective adjudication of the instant writ petition, the relevant facts leading to the filing of the instant writ petition are required to be dealt with in a nutshell and those are as under: -

(a) On 18.02.2026, the respondent No. 2/authority served three separate notices upon the writ petitioner No. 1/company under Sections 4(1), 7(3) and 7(3) of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (the 'said Act' in short).

(b) By the first notice under Section 4(1), the respondent No. 2/authority asked the writ petitioner No.1/company to show-cause as to why an order of eviction should not be made in respect of the property, particulars of which has been mentioned in the schedule of the said notice and which is also the subject matter of the instant writ petition. By the subsequent two notices of the same date, the respondent No. 2/authority also directed the writ petitioner No.1/company to show-cause as to why an order for payment of Rs.1,39,086.54/- towards alleged rental dues and Rs.94,47,127.49/- towards damages on

account of unauthorized occupation in respect of the schedule mentioned property therein.

(c) Record reveals that based on the aforementioned three notices dated 18.02.2026, three proceedings bearing Nos. 1127, 1127/R and 1127/D of 2011 were initiated by the respondent No. 2/authority against the writ petitioner No.1/company. It is pertinent to mention herein that the respondent No. 2/authority had chosen to conduct the aforementioned three proceedings analogously which is why in connection with the aforementioned three proceedings series of common orders have been passed.

(d) Record reveals further that in the said proceedings, both the Port authority and the petitioner No.1/company participated and in course of such proceedings it has been reported to the Estate Officer by the Port Authority that they have taken possession of the property in question however before the Estate Officer, it is the specific defense of the writ petitioner No. 1/company that they were never in occupation of the said property in question.

(e) In view of the taking of possession of the property in question by the Port authority, the Estate Officer/the respondent No. 2 recorded that the proceeding regarding

eviction of the writ petitioner No.1/company had become infructuous.

(f) On 06.05.2026 and on 20.05.2026, the Port Authority was supposed to file relevant documents in support of their claim. However, on the prayer of the Port authority, time was granted by the respondent No.2/authority and ultimately on 10.06.2026 the Port authority filed the documents. On the self-same day, the respondent No.2/authority granted liberty to the writ petitioner No.1/company to take inspection of the original documents and to file their reply to the show-cause notice on the next date of hearing that is on 24.06.2026.

(g) On 24.06.2026, the writ petitioner No.1/company approached the respondent No.2/authority requesting him to grant time which was, however negatived and accordingly hearing of the said proceeding was concluded with a liberty to the writ petitioner No.1/company to file their written pleadings/written notes of argument within ten days from date.

(h) The writ petitioner No.1/company through its learned advocate requested the respondent No. 2/authority to grant extension of time to file a comprehensive reply in connection with the aforementioned proceeding, however

on 03.07.2026, the writ petitioner No.1/company submitted a written submission before the respondent No.2/authority which was received on 07.07.2026.

(i) After that, that is on 13.07.2026 the impugned order came to be passed.

3. At the time of hearing, Mr. Mukherjee, learned advocate appearing on behalf of the writ petitioners submits before this Court that on perusal of the different orders as passed in the aforementioned proceeding, it would reveal that the respondent No.2/authority in the said proceedings dealt the writ petitioners step motherly by granting no time to file their reply to the show-cause notices and/or regarding the documents relied upon by the Port Authority whereas from the self-same order-sheets it would reveal that the Port Authority was given enough time to produce their documents to substantiate their case. It is further argued by Mr. Mukherjee that from the order sheets of the said proceeding as have been annexed in the instant writ petition, it would reveal further that the writ petitioner No.1/company was not given adequate opportunity to take inspection of the old documents as have been placed before the respondent No. 2/authority by the Port authority and for that the respondent No.2/authority has miserably failed to observe the principle of natural justice which is equally essential even in a quasi-judicial proceeding.

4. It is further argued by Mr. Mukherjee that while passing the impugned order, the respondent No.2/authority in the internal page No.2 thereof categorically observed that despite giving due opportunity, the writ petitioners herein failed and neglected to file his reply to the show-cause notices and even despite giving due liberty, the writ petitioner No.1/company did not avail the opportunity by filing written notes of argument.

5. It is argued by Mr. Mukherjee that on perusal of the page Nos. 93 and 94 of the instant writ petition, being a copy of the written submission dated 03.07.2026 it would reveal that the said written submission was received by the office of the respondent No. 2/authority on 07.07.2026 and despite that the respondent No.2/authority went on to dispose of the said proceeding by holding that no written submission and/or no written notes of argument was filed by the writ petitioner No.1/company in the said three proceedings. It is thus submitted by Mr. Mukherjee that the finding of the respondent No.2/authority in the impugned order is perverse inasmuch as the respondent No. 2/authority has miserably failed to consider the relevant materials which are on record rather persuaded himself to pass the impugned order considering the materials which are not on record. It is thus submitted by Mr. Mukherjee that this is a fit case for interfering with the impugned order in judicial review.

6. In support of his contention, Mr. Mukherjee places his reliance upon the judgment of the Hon'ble Supreme Court in the case of ***State Project Director, U.P. Education for all Project Board and Others vs. Saroj Maurya and Others,*** reported in (**2024) 12 SCC 609.** It is argued by Mr. Mukherjee that in the case of ***Saroj Maurya (supra)*** the Hon'ble Supreme Court expressed the view that in the event an impugned judgment is without any reason, the same cannot be sustained. It is thus submitted by Mr. Mukherjee that it is a fit case for granting the reliefs as prayed for in the instant writ petition.

7. Per contra, Mr. Dutta, learned senior advocate appearing on behalf of the respondent No.1/Port in course of his argument draws attention of this Court to the three show-cause notices from which the aforementioned three proceedings were initiated. Attention of this Court is drawn to page Nos. 78 to 89 of the instant writ petition, being the copies of the bills allegedly received by the writ petitioner No.1/company as have been filed before the respondent No.2/authority to substantiate the occupation of the writ petitioner No.1/company for the relevant period. It is argued by Mr. Dutta that while passing the impugned order, the respondent No. 2/authority came to a factual finding regarding the genuineness of the said documents and also came to a factual finding that the respondent/port authority before the respondent No. 2/authority was successful in establishing the period of occupation by the writ

petitioner at the property in question. Mr. Dutta argued that in absence of any contrary material and/or in absence of any material to substantiate that such factual finding of the respondent No.2/authority is based on no material, no interference may be called for in this judicial review.

8. It is further submitted by Mr. Dutta that on conjoint perusal of page Nos. 73 and 74 of the instant writ petition it would reveal that in reply to the aforementioned three show cause notices, the writ petitioner No.1/company categorically denied that they were ever in occupation of the property in question. Drawing attention to different order sheets of the aforementioned three proceedings, it is further argued by Mr. Dutta that due opportunity of hearing was given to the writ petitioner No.1/company by the respondent No. 2/authority and despite such fact, the writ petitioner No. 1/company herein had chosen not to file their reply in the said proceeding and accordingly the allegation as made before this Court on behalf of the writ petitioner No.1/company that principles of natural justice has been violated has got no leg to stand upon.

9. It is further argued by Mr. Dutta that while passing the impugned order, the respondent no. 2 authority has duly considered the reply given by the writ petitioner company pursuant to the show-cause notices.

10. It is further submitted by Mr. Dutta that in absence of any serious prejudice caused to the writ petitioner No.1/company, this Court may not entertain the instant writ petition even for the sake of argument it is held that there occurred violation of principles of natural justice in the said proceedings. It is further argued by Mr. Dutta that the writ petitioner No.1/company has miserably failed to show the resultant harm as allegedly caused to them on account of passing of the impugned order.

11. In course of his argument Mr. Dutta also submits before this Court that the instant writ petition is not maintainable in its present form in view of the fact that despite availability of alternative efficacious statutory remedy under Section 9 of the said Act by way of filing an appeal, the writ petitioner No.1/company has chosen to invoke the high prerogative writ jurisdiction of this Court for the reason best known to them. It is further submitted by Mr. Dutta that the case of the writ petitioner also does not fall within the meaning of exceptions regarding entertainability of a writ petition despite availability of alternative remedy as has been time and again enunciated by the Hon'ble Supreme Court and the different High Courts. Mr. Dutta, thus submits that it is a fit case for dismissal of the writ petition.

12. This Court has meticulously gone through the entire materials as placed before this Court. This Court has given its due consideration over the submissions of learned advocates for the contending parties.

13. Since in course of his submission Mr. Dutta has raised the question of maintainability of the instant writ petition, this Court at the very outset proposes to look to the law of land as to when a constitutional Court can exercise writ jurisdiction even when alternative remedy is available.

14. In the reported decision of ***Radha Krishan Industries vs. State of Himachal Pradesh***, reported in ***(2021)6 SCC 771***, the Hon'ble Court while dealing with the self-same subject express thus:

> *"A writ petition should not be entertained when an efficacious alternate remedy is provided by law.*
>
> *27.5. When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion.*
>
> *27.6. In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with.*

28. These principles have been consistently upheld by this Court in ***Chand Ratan v. Durga Prasad reported in (2003) 5 SCC 399, Babubhai Muljibhai Patel v. Nandlal Khodidas Barot reported in (1974) 2 SCC 706 and Rajasthan SEB v. Union of India reported in (2008) 5 SCC 632 among other decisions."***

15. On careful perusal of the proposition of law as decided in the case of ***Radha Krishan Industries (supra)*** this Court has noticed that the Hon'ble Supreme Court had categorically indicated the exceptions in paragraph 27.3 of the said judgment when the Court sitting in writ jurisdiction can entertain a writ petition despite availability of the alternative remedy.

16. Keeping in mind, the aforementioned legal proposition if I look to the factual aspects of this case it appears to this Court that it is the specific case of the writ petitioner that in the aforementioned three proceedings due inspection of the documents were not given to the writ petitioner.

17. It is the further case of the writ petitioner that despite seeking time, the respondent No. 2/authority for the reason best known to him dealt the writ petitioner step motherly and precluded the writ petitioner No.1/company from filing reply to the show-cause and even while passing the impugned order did not consider the written notes of

submission and even recorded that no such written submission has been filed.

18. Such being the position, it appears to this Court that in the event it is established that the allegations as made in the instant writ petition by the writ petitioner No.1/company are genuine, in considered view of this Court, the same would be treated as violation of principles of natural justice which comes under the cases of exception for entertaining a writ petition by a constitutional Court despite availability of alternative remedy.

19. At this juncture if I look to the page Nos. 73 and 74 of the instant writ petition conjointly it appears to this Court that by a covering letter dated 09.04.2026 as issued by the learned advocate for the writ petitioner No.1/company, the said learned advocate along with the said letter dated 09.04.2026 forwarded the response to the show-cause notice dated 18.02.2026 on behalf of the writ petitioner No.1/company herein.

20. In view of such, this Court is constrained to hold that in connection with the aforementioned three proceedings, the present writ petitioner has filed his reply vide its letter dated 09.04.2026 which is enclosed with a forwarding letter dated 09.04.2026.

21. In view of such, the Court considers that the respondent No. 2/authority ought not to have recorded in the impugned order that in the said three proceedings, the writ petitioner No.1/company has not

filed its reply to the show-cause. In considered view of this Court on account of non-consideration of the relevant materials as available on record, a serious miscarriage of justice occurred which is required to be interfered with in a judicial review.

22. The record reveals further that pursuant to the leave granted by the respondent no. 2 authority on 10.06.2026, the writ petitioner company submitted its written notes of submission dated 03.07.2026, which was duly received by the respondent no. 2 authority on 07.07.2026 and the was also overlooked by the respondent no. 2 authority while passing the impugned order, thereby causing serious miscarriage of justice by non-consideration of another relevant material facts.

23. It thus, appears to this Court that the impugned order came to be passed at the instance of the respondent no. 2 authority, thereby imposing huge monetary liability upon the writ petitioner company, which is really prejudicial to the writ petitioner company on account of non-consideration of the reply to the show cause dated 09.04.2026 and their written notes of submission dated 03.07.2026 as received by the respondent no. 2 authority on 07.07.2026.

24. This Court is, however, in respectful disagreement with the argument of Mr. Mukherjee that he was not given due inspection of the relevant documents, in view of the fact that the writ petitioner company has annexed all the documents as relied upon by the

respondent port authority in this writ petition and thus, the said allegation is negatived by this Court.

25. In view of the discussions made hereinabove, this Court thus, finds that the instant writ petition is very much maintainable, and the same deserves to be allowed.

26. Consequently, **W.P.A. No. 24063 of 2026** is thus **allowed.**

27. Consequently, the matter is remanded to the respondent no. 2 authority for passing a fresh reasoned order.

28. Consequently, the impugned order dated 13.07.2026 as passed by the respondent no. 2 authority is hereby set aside.

29. Consequently, the writ petitioner nos. 1 and 2 and the respondent no. 1/ Port authority are hereby directed to appear before the respondent no. 2 authority in connection with the aforementioned proceedings positively on October 13, 2026, at 12:00 O'clock either in person or through their authorized representatives.

30. Upon such appearance, the respondent no. 2 authority shall fix a date of argument for the aforementioned three proceedings and on the adjourned day of advancing arguments before the respondent no. 2 authority in connection with the aforementioned proceedings, the writ petitioner company and the representative of the respondent no. 1 Port authority, and/or their authorized representative, shall advance their respective arguments and on conclusion of such

argument, the respondent no. 2 authority shall pass a fresh reasoned order positively by the last day of November 2026.

31. The time limits as fixed by this Court are peremptory and mandatory, and in the event any adjournment(s) is/are sought for by either of the parties on any ground whatsoever, the respondent no. 2 authority shall reject the same.

32. It is further directed that in course of the argument, neither parties of the said proceeding would file any further documents before the respondent no. 2/ authority, and in the event such documents are filed, the same would be treated as rejected.

33. Liberty is given to the learned advocates for both the parties to communicate the server copy of this order to the respondent no. 2 authority, who is directed to act on the server copy of this order.

34. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)

[Sws.M[AR(C)/Susanta(AR(C)]