
(2019) 01 CAL CK 0053
In the Calcutta High Court
Case No : Writ Petition No. 481 Of 2018

Indian Pulp & Paper Private Limited & Anr	APPELLANT
Vs	
State Of West Bengal & Ors	RESPONDENT

Date of Decision : 17-01-2019

Acts Referred:

Citation : (2019) 01 CAL CK 0053

Hon'ble Judges : Tapabrata Chakraborty, J

Bench : Single Bench

Advocate : Saptangshu Basu, Sutapa Sanyal, Debrup Bhattacharya, P.K.Tulsyan, Debjani Mitra, Amitesh Banerjee, Ipsita Banerjee

Final Decision : Disposed Off

Judgement

The present writ petition has been preferred primarily praying for the following relief:

"a) A writ in the nature of Mandamus do issue upon the respondent authorities thereby directing each of them to coordinate between themselves and to execute and register two sale deeds for (i) land and building and (ii) plant and machinery in terms of the lease deed and tender documents and in furtherance to the letter dated January 09, 2017 bearing reference No. 38 - PEC/IPP/28 - I/ 2003 issued by the Additional Secretary being Respondent No. 3 herein as expeditiously as possible preferably within a specific time frame that may be decided by this Hon'ble Court."

Mr. Basu, learned senior advocate appearing for the petitioners submits that after the petitioner no.1 emerged to be successful in a tender process, a letter of intent for acquisition of Factory premises alongwith At Site Infrastructure, Plant & Equipment, Sheds Structure of M/s IPP Ltd., Naihati, 24-Parganas (North), West Bengal on "as is where is and what so ever there is" basis was issued by the West Bengal Industrial Development Corporation Limited (in short, WBIDCL) on 18th May, 2006. Subsequent thereto, upon payment of an amount of

Rs.11,00,08,100/- possession was handed over and a deed of lease for land and building and a deed of lease for plant and machineries were executed on 9th January, 2007 with condition that on expiry of 18 months from the date of signing of execution of the said deeds, a formal deed of sale would be executed in favour of the petitioner no.1. Upon successful implementation of the project and commencement of commercial production, the petitioners prayed for registration of the sale deed in their favour. Repeated reminders were issued, but the same were not attended to. Ultimately by a letter dated 9th January, 2017 the Additional Secretary to the Government of West Bengal, Department of Large Industries & Enterprises requested the Executive Director of the respondent no. 5 to initiate the process of execution of the proposed sale deed of the land and building and the plant and machinery in favour of the petitioner no. 1. In spite of issuance of the said letter, no steps were taken. No reason is forthcoming as to why the petitioners' claim has been kept in abeyance and no step has been taken towards execution of the deed of sale.

Mr. Banerjee, learned senior advocate appearing for the respondents disputes the contention of the petitioners and submits that the pre-conditions towards execution of the sale deed had not been fulfilled.

In reply, Mr. Basu submits that no such pre-conditions were intimated to the petitioner no. 1.

Upon hearing the learned advocates appearing for the respective parties and upon considering the materials on record and as on the basis of the petitioners' representations no final decision has been taken by the competent authority, I am of the opinion that no useful purpose would be served by keeping the writ petition pending and the issue needs to be relegated to the competent authority.

Mr. Banerjee submits that the Secretary to the Government of West Bengal, Department of Industrial Commercial and Enterprise (P) and IR Wing, Government of West Bengal is the competent authority to decide the dispute.

In view thereof, this Court directs the petitioners to submit a fresh representation to the Secretary, Government of West Bengal, Department of Industrial Commercial and Enterprise (P) and IR Wing within a period of two weeks.

Upon receipt of the said representation, the Secretary shall consider the same, upon granting an opportunity of hearing to a representative of the petitioner no. 1 and take a decision, in accordance with law and communicate the same to the petitioner no. 1.

Such exercise shall be completed by the Secretary, Government of West Bengal, Department of Industrial Commercial and Enterprise (P) and IR Wing within a period of four weeks from the date of submission of the representation.

With the above observations and directions, the writ petition is disposed of. As the writ petition has been disposed of without calling for affidavits, the

allegations levelled against the respondents in the same shall be deemed to have been denied.