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**(1994) 11 CAL CK 0016**  
**In the Calcutta High Court**  
**Case No : C.O. No. 15573 (W) of 1993**

|                                           |            |
|-------------------------------------------|------------|
| Shree Hanuman Jute Mills Ltd. and Another | APPELLANT  |
| Vs                                        |            |
| Central Warehousing Corpn. and Others     | RESPONDENT |

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**Date of Decision :** 09-11-1994

**Acts Referred:**

Constitution of India, 1950 — Article 12, 226

**Citation :** (1995) 1 CALLT 133

**Hon'ble Judges :** Satyabrata Sinha, J

**Bench :** Single Bench

**Advocate :** Anindya Mitra, Asim Banerjee and Dipayan Chowdhury, for the Appellant; P.K. Das and Debal Banerjee, for the Respondent

**Final Decision :** Dismissed

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## Judgement

Satyabrata Sinha, J.—Heard learned counsel for the petitioner and the learned counsel for the respondent.

2. The petitioners in this application have, inter alia, prayed for issuance of a Writ of or in the nature of Mandamus directing the respondents to revise and fix the rent payable in respect of the godown of the petitioners let out to the respondent No. 1, purported to be in terms of the directions and/ or guidelines issued by the respondent No. 3 as contained in Annexure "A" to the writ application.

3. The case of the petitioners is that an agreement was entered into between the petitioner No. 1 and the respondent No. 1 to enhance the rent subject to the condition that the petitioner No. 1 effects necessary repairs to the tenanted premises.

4. The respondent No. 1 in its affidavit in opposition has clearly stated that the purported directions as contained in Annexure "A" to the writ application are not binding upon it in so far as it is not a department of the Central Government. It has further been contended in the affidavit in opposition that the writ petitioners have failed to carry out repairs of the building. Further contention of the

respondent No. 1 is that the petitioners seek to enforce a contract qua contract.

5. Mr. Banerjee learned counsel appearing on behalf of the petitioners, inter alia, submits that the respondent No. 1 cannot be permitted to act arbitrarily in refusing to enhance the rent by not following the guidelines issued by the Central Government. He further submits that in any event, as the petitioners have carried out repairs of the buildings pursuant to the agreement entered into by and between the parties, the respondent No. 1 must be held to be bound under the doctrine of promissory estoppel so as to enable the writ petitioners to obtain a Writ of or in the nature of Mandamus as has been prayed for in the writ application.

6. It is not disputed that there exists a relationship of landlord and tenant between the petitioner No. 1 and the respondent No. 1. The terms and conditions of the said tenancy are governed under the agreement entered into by and between the parties. Parties also can enforce their right, if any, under the provisions of the West Bengal Premises Tenancy Act. So far as the contention of Mr. Banerjee to the effect that the respondent No. 1 is bound by the guidelines issued by the Central Government is concerned, the same is misconceived, in as much as, the respondent No. 1 Corporation having been formed and incorporated under the provisions of the Central Warehousing Corporation Act, 1962, is a statutory Corporation, and thus, is not a department of the Central Government. My attention has not been drawn to any provisions of the Act, in terms whereof the respondent No. 1 Corporation would be bound by any guideline issued by the Central Government, particularly when no such guideline has been issued in respect of respondent No. 1 Corporation. The general guidelines issued by the Central Government which are applicable in relation to its own department, cannot ipso facto be made applicable to cases of all public sector organisations and/or statutory Corporations.

7. Moreover, the petitioners in this writ application seek to enforce a contract qua contract. Such a writ application is, therefore, not maintainable in view of the decision of the Supreme Court of India reported in Radhakrishna Agarwal and Others Vs. State of Bihar and Others, : Radhakrishna Agarwal and Others Vs. State of Bihar and Others, , as also a recent decision of mine reported in 1994 Volume 1 Bihar Law Journal Reports 559. It further appears that this question is covered by a decision of this Court dated 21st April 1993, in Matter No. 759 of 1990 (Presidency Jute Mills v Central Warehousing Corporation).

8. Submission of Mr. Banerjee that the respondent No. 1 is bound under the doctrine of promissory estoppel is equally misconceived, in as much as, indicated hereinbefore, there exists a disputed question as to whether the petitioners have carried out repairs pursuant to the agreement entered into by and between the parties herein, or not. In any event, this Court cannot issue a Writ of or in the nature of Mandamus unless the petitioners prove existence of a legal right in themselves and the corresponding public duty in the respondent No. 1. The petitioners have failed to establish existence of such a legal right so as to enable

themselves to obtain a Writ of or in the nature of Mandamus. This Court can exercise its jurisdiction under Article 226 of the Constitution of India in a matter of contract only if there exists any public law element, which is not available in this case.

9. Mr. Banerjee appearing on behalf of the petitioners submits that the petitioners had to withdraw the earlier writ application in view of the observations made by U.C. Banerjee, J. in the earlier writ application to the effect that this application would be entertained after the petitioners withdraw the suit. The petitioners have quoted the operative portion of the order made by Justice Banerjee, which reads thus :

"Moved as unlisted motion. No order passed. Original returned back."

10. Thus, there is nothing to indicate that any observation was made by Justice Banerjee. This Court while interpreting the said order, cannot rely upon any statement made in this regard by the petitioners, particularly in view of the fact that such statements have been specifically denied and disputed by the respondent No. 1 in its affidavit in opposition. In any event, as this Court has held that this writ application is not maintainable, this application cannot be entertained only because of some observations allegedly made by His Lordship.

11. For the reasons aforementioned, there is no merit in this application, which is accordingly dismissed.

12. It goes without saying that I have not applied my mind with respect to the respective rights and obligations of the parties, which the parties may seek to enforce before appropriate forum.

Let xerox copy of this order be supplied to the learned counsel appearing for the parties, on usual undertaking.