

(2022) 01 CAL CK 0063

In the Calcutta High Court

Case No : MAT No. 2, 4 Of 2022, CAN 1 Of 2022

Ujjal Kumar Paul & Ors.

APPELLANT

Vs

State Of West Bengal & Ors.

RESPONDENT

Date of Decision : 18-01-2022

Acts Referred:

West Bengal Government Premises (Regulation of Occupation) Act, 1984 — Section 2(D), 2(K)

Citation : (2022) 01 CAL CK 0063

Hon'ble Judges : Prakash Shrivastava, CJ

Bench : Single Bench

Advocate : Bikash Ranjan Bhattacharyya, Jamiruddin Khan, Sayanti Sengupta, S. N. Mookherjee, Anirban Ray, Pinaki Dhole, Debasish Ghosh, Avisek Prasad, Pranab Halder, Bipin Ghosh

Final Decision : Dismissed

Judgement

Prakash Shrivastava, CJ

1. This order will govern the disposal of MAT 2 of 2022 and MAT 4 of 2022 as in both the appeals identical order in similar fact situation are under

challenge.

2. These appeal are directed against the order of the learned Single Judge dated 23.12.2021 whereby the interim order dated 2nd of November, 2021

passed in WPA 17445 of 2021 and WPA 20086 of 2019 have not been extended any further.

3. The appellants had filed the petition challenging the notice dated 8th of October, 2021 stating that the appellants were in unauthorized occupation the quarter in question after their retirement on superannuation and that licence for the Government premises were terminated in terms of the Act of 1984

and, therefore, appellants were to deliver the possession of the premises within 30 days failing which the matter was to be processed with in terms of

law. Initially by orders dated 01.11.2021 and 02.11.2021 the learned Single Judge had directed that the notice dated 8th of October, 2021 will not be

given effect to till the next date of hearing. On 23.12.2021 learned Single Judge on the basis of certain admission made by the learned Counsel for the

appellants did not find it to be a fit case for exercising the discretion for extending the interim order. Hence, learned Single Judge has declined to

extend the interim order.

4. Submission of the learned Counsel for the appellants is that the premises in occupation of the appellant is not a Government premises in terms of

Section 2(D) of the West Bengal Government Premises (Regulation of Occupation) Act, 1984, but it is a public premises in terms of Section 2(K)

read with schedule 2, therefore, the action is bad in law.

5. Learned Advocate General has opposed the appeal by submitting that order has been passed by the learned Single Judge on the basis of the

admissions made by the Counsel, therefore, it is not open to the Counsel for the appellant to make submission contrary to the said admission. He has

submitted that the action is taken under the West Bengal Government Premises (Tenancy Regulation) Act, 1976 and that Act has overriding effect as

has been settled by the Honâ??ble Supreme Court in the matter of State of W.B. and Another vs. Banalata Investment Pvt. Ltd., (2001) 4 SCC 700.

He has also referred to the order passed in WPST 4 of 2021 in the case of Chandrawati Devi vs. The State of West Bengal and Ors. and has

submitted ex-employees are required to be evicted from the Government accommodation allotted to them during service.

6. Having heard the learned Counsel for the parties and on perusal of the record, it is noticed that before the learned Single Judge, Counsel for the

appellants had admitted that the property did not belong to the appellants and it was an official accommodation given to the appellants in course of

employment and as perk. It was an admitted position before the learned Single Judge that the appellants did not have any right title and interest in

respect of the property in question and that the property belonged to the State. Mere mention of the incorrect Act in the notice has been found to be

inconsequential by the learned Single Judge. On the basis of the admitted facts

learned Single Judge has reached to the conclusion that the appellants have no right to stay and continue in occupation after expiry of their employment or engagement with the State.

7. The issue which the learned Counsel for the appellants has risen before this Court that the appellants had not receive the premises in question

during the course of employment as official accommodation, is contrary to the admitted position before the learned Single Judge. If any wrong

admission has been made before the learned Single Judge by the Counsel for the appellants then the remedy lies in filing an appropriate application

before the concerned Court for clarification/modification/recall of the order. Learned Single Judge has not committed any error in discontinuing the

interim order on the basis of the admission made before him. Hence, we find no reason to interfere in the order of the learned Single Judge. The

appeal is accordingly dismissed, however, with liberty to the appellants to file appropriate application before the learned Single Judge and also with

liberty to mention before the learned Single Judge after filing such an application.