
(2011) 06 CAL CK 0050
In the Calcutta High Court
Case No : C.O. 3195 of 2008

West Bengal Electronics Industry Development Corporation Limited APPELLANT

Vs

Board of Trustees of The Port of Calcutta and Others RESPONDENT

Date of Decision : 10-06-2011

Acts Referred:

Constitution of India, 1950 — Article 227
Public Premises (Eviction of Unauthorised Occupants) Act, 1971 — Section 4

Citation : (2011) 06 CAL CK 0050

Hon'ble Judges : Syamal Kanti Chakrabarti, J

Bench : Single Bench

Advocate : Saptangsu Basu, Biswaroop Bhattacharjee and Sudhangsu Sil, for the Appellant; Malay Kumar Basu and Somnath Basu, for the Respondent

Final Decision : Dismissed

Judgement

Syamal Kanti Chakrabarti, J.—In the instant revisional application under Article 227 of the Constitution Order No. 7 dated 18th August, 2008 passed by the learned Estate Officer, Calcutta Port Trust in proceedings No. 26 of 2008 has been assailed. It is contended that by such order the Estate Officer has considered an application filed by opposite party on 18.08.2008 with reference to reply to the show cause u/s 4 of the Act praying for staying of the said proceedings and to remit the suit involved into the proceedings for consideration of the high powered committee for settlement of disputes.

2. The facts in brief leading to such order is that the Petitioners, W.B. Electronics Industry Development Corporation Ltd. is a Govt. company. The Respondent No. 1, Board of Trustees of the Port of Calcutta is a body corporate constituted under the Major Port Trust Act, 1963. It is a local authority owning land and buildings on both sides of the river Hooghly in and near Kolkata. Therefore, for all practical purposes the dispute centers around two Public Sector Undertakings/Enterprises. Such dispute arose in a proceeding being No. 926 of 2008 u/s 4 of the Public

Premises (Eviction of Unauthorised Occupants) Act, 1971 initiated by the Respondents against Petitioner who was called upon to deliver peaceful and vacant possession of the piece and parcel of land measuring about 27348.50 squire meters comprised in 2 belts at Taratala Road and to pay damages for unauthorised use of the public premises up to the date of handing over possession. On 18.8.2008 the dispute was taken up for consideration by the Estate Officer while the Petitioner filed an application praying for remission of their dispute for consideration by a High Powered Committee and to stay further proceedings in the meantime. By order No. 7 dated 18.8.2008 the Estate Officer rejected such prayer upon hearing both parties. Said order has now been assailed.

3. Learned lawyer for the Petitioner has contended that in such type of dispute between the government department and government undertakings the Hon''ble Apex Court in a number of cases has directed that it shall be the obligation of every court and every Tribunal where such a dispute is raised hereafter to demand a clearance from the committee in case it has not been so completed and in absence of clearance the proceedings would not be proceeded with. He has referred to and relied upon the following cases:

- i) In the case of 1992 (61) ELT 3 (SC)
- ii) In the case of Oil and Natural Gas Commission and Another Vs. Collector of Central Excise,
- iii) In the case of Chief Conservator of Forests, Govt. of A.P. Vs. The Collector and Others,
- iv) In the case of Mahanagar Telephone Nigam Ltd. Vs. Chairman, Central Board, Direct Taxes and Another,
- v) In the case of Oil and Natural Gas Commission Vs. Collector of Central Excise,
- vi) In the case of Punjab and Sind Bank Vs. Allahabad Bank and Others,
- vii) In the case of Oil and Natural Gas Corporation Ltd. Vs. City and Indust. Dev. Corpn., Maharashtra and Others,
- viii) In the case of Rajkamal Builders Vs. Ahmedabad Municipal Corporation and Others,

Therefore, the Estate Officer should follow the mandate of the Hon''ble Apex Court and cannot proceed with the matter without referring the same for consideration of a high powered committee for settlement of the disputes. But the Estate Officer rejected the prayer for stay and kept open all other issues connected with the matter for discussion on merit which is not sustainable in law.

4. Learned Advocate for the opposite parties on the contrary has referred to and relied the principles laid down by the Hon''ble Apex Court in Rajkamal Builders Vs. Ahmedabad Municipal Corporation and Others, Oil and Natural Gas Corporation Ltd. Vs. City and Indust. Dev. Corpn., Maharashtra and Others, . and

Steel Authority of India Ltd. (Successor to Hindustan Steel Ltd.) Vs. Life Insurance Corporation of India and Others, to substantiate his contention that eviction dispute between such public bodies need not be dealt with by a High Powered Committee which is intended to decide the fiscal disputes in cases of major policy matters to save the public money and Court's valuable time. So action for eviction under the Act of 1971 is maintainable and the Estate Officer has rightly rejected such prayer which should not be interfered with in revision.

5. I have carefully considered the rival contentions of both the parties. Petitioner's claim of referring the matter at the first instance to a High Powered Committee mainly rests on precedent set at rest by the Hon'ble Apex Court in the cases of (i) Oil and Natural Gas Commission and Another Vs. Collector of Central Excise, , (ii) Oil and Natural Gas Commission Vs. Collector of Central Excise, dated 07.01.1994 and (iii) Oil and Natural Gas Corporation Ltd. Vs. City and Indust. Dev. Corpn., Maharashtra and Others, dated 20.07.2007. In the first case (supra) it was the solemn verdict of the Hon'ble Apex Court to set up such Committee to ensure that no litigation comes to Court or to a Tribunal without the matter having been first examined by such committee and its clearance for litigation. Other cases echoed the same principle.

6. Recently the Hon'ble Apex Court has revised such decision in the Civil Appeal No. 1883 of 2011 in the case of Electronics Corporation of India Limited -Vs.- Union of India and Ors. In the said case the Hon'ble Apex Court by order dated 17.02.2011 held that since the mechanism set up with a laudatory object has led to delay in filing of Civil Appeals causing loss of revenue, the ultimate object fails at present. So the Hon'ble Apex Court has recalled the orders reported in (i) Oil and Natural Gas Commission and Another Vs. Collector of Central Excise, , (ii) Oil and Natural Gas Commission Vs. Collector of Central Excise, dated 07.01.1994; (iii) Oil and Natural Gas Corporation Ltd. Vs. City and Indust. Dev. Corpn., Maharashtra and Others, dated 20.07.2007. Thus the precedent of setting up such high powered committee at present is neither operative nor mandatory and I hold that in view of such latest decision of the Hon'ble Apex Court action taken by the Estate Officer should not be interfered with as neither party will be prejudiced and all points have been left open for discussion.

7. Under such circumstances I hold that the Estate Officer concerned has rightly rejected the prayer for stay. Therefore, I do not find any merit in this revisional application which is accordingly dismissed.

8. The Estate Officer is directed to proceed with the matter as per law.

9. I make no order as to costs.

10. Urgent photostat certified copy of this order, if applied for, be given to the parties upon consideration of all requisite formalities.