

Appellant Vs. Respondent

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Court : Kolkata

Decided On : Mar-13-2012

Judge : Pinaki Chandra Ghose

Appellant : Appellant

Respondent : Respondent

Judgement :

ORDER

SHEET APOT No.118 of 2012 G.A.No.673 of 2012 WP No.1509 of 2008 IN THE HIGH COURT AT CALCUTTA Civil Appellate Jurisdiction ORIGINAL SIDE INSTITUTE FOR INDIAN LABOUR & ANR.

Plaintiff/Petitioner/Applicant Versus KOLKATA MUNICIPAL CORPORATION & ORS.Defendant/Respondent BEFORE: The Hon'ble JUSTICE PINAKI CHANDRA GHOSE, ACTING CHIEF JUSTICE The Hon'ble JUSTICE MRINAL KANTI CHAUDHURI Date :

13. h March, 2012.

Chatterjee, Advocate.

For Plaintiff/Petitioner : Mr.Pratap Sr.Advocate with Mr.Anil Dhar, Id.

Mr.Samit Talukdar Sr.Counsel, Mr.Saptangshu Basu, Sr.Advocate with Mr.R.Bhattacharjee, ADvocate For Defendant/Respondent Chakraborty, Mr.Barin Banerjee, Advocates.

The Court :-There will be an :Mr.D.order in terms of prayer (a) of the petition.

We have heard learned Counsel for the parties.

Mr.Chatterjee, learned Senior Counsel appearing on behalf of the appellant drew our attention to the report of the Kolkata Municipal Corporation prepared by their Deputy Chief Engineer.

We have perused the said report.

The grievance of the appellant before us is that the notice under section 411(1) of the Act was served on the appellant for taking steps in the matter in question and the reasons therefor are specifically stated in the said notice.

It is the case of the appellant that the present occupiers or the tenants who are also appearing before us through Mr.Talukdar submitted that they will use the premises in question at their own risk and peril and they shall not ask for any damages from the landlord if they suffer for using the premises at their risks.

So far as the coercive proceeding in respect of the property in question against the appellant is concerned, it is stated by them that they will not intend to take any steps with regard thereto.

Mr.Benerjee appearing for the Corporation submits that objection has already been filed by the appellant.

Mr.Talukdars client being the occupants of the premises in question has not filed any objection except challenging the said notice in the writ jurisdiction of this Court.

In view of that we do not intend to pass any order with regard to the objection so to be filed by Mr.Talukdars client and it would be for them to take steps in the matter accordingly.

Mr.Chatterjees client shall be at liberty to take steps in accordance with the notice so served under section 411(1) of the Kolkata Municipal Corporation Act.

2 It is recorded that since Mr.Talukdars clients are using the property in question they will use the same at their own risk and peril.

None of the parties including the Corporation shall take any step in the matter which will be in coercive nature against the appellant.

Both the appeal and the application are disposed of accordingly.

All parties concerned are to act on a xerox signed copy of this order on the usual undertakings.

Urgent xerox certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(PINAKI CHANDRA GHOSE, ACJ.) (Dr.MRINAL KANTI CHAUDHURI, J.) dg/ 3

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