

Samar Kumar Basu and anr. Vs. the State of West Bengal and ors.

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Court : Kolkata

Decided On : Sep-25-2014

Judge : Debangsu Basak

Appellant : Samar Kumar Basu and anr.

Respondent : The State of West Bengal and ors.

Judgement :

ORDER

SHEET G.A.No.3136 of 2014 W.P.No.254 of 2012 IN THE HIGH COURT AT CALCUTTA Ordinary Original Civil Jurisdiction ORIGINAL SIDE SAMAR KUMAR BASU AND ANR.

Versus THE STATE OF WEST BENGAL & ORS.BEFORE: The Hon'ble JUSTICE DEBANGSU BASAK Date : 25th September, 2014.

Appearance : Mr.Sabyasachi Chowdhury, Adv.Mr.Rajarshi Dutta, Adv.The Court : This is an application seeking interim relief in the pending writ petition with regard to an order dated 20th August, 2014 issued on behalf of the West Bengal Small Industries Development Corporation Limited.

It is submitted by the writ petitioner that, the plot in question is under the possession of the West Bengal Small Industries Development Corporation Limited as they have put a padlock thereat.

The writ petitioner seeks an interim protection that no further steps be taken by the West Bengal Small Industries Development Corporation Limited relating to the plot concerned till the disposal of the writ petition.

In the writ petition, the writ petitioner claims relief with regard to execution of a fresh lease for a portion of the plot consequent to the approval granted by the respondent authorities as to the change of status of the lessee.

The respondent authorities are represented.

It is submitted on their behalf that a prayer for ad interim relief was declined April 3, 2012.

The West Bengal Small Industries Development Corporation Limited has taken possession of the plot concerned.

There are other industries in the queue to which the plot concerned is required to be allotted.

The writ petitioner does not deserve any interim protection.

Considering the rival contentions of the parties and the materials on record.

A writ petition filed by the writ petitioner seeking relief with regard to plot of land is pending adjudication before this Court.

An ad interim relief prayed for was refused on April 3, 2012.

During the pendency of the writ petition the West Bengal Small Industries Development Corporation Limited has proceeded to take possession of the plot of land concerned.

In fact, it has put a padlock at the plot concerned.

In the event the respondent authorities are permitted to change the lessee by allotting such plot of land to a third party the writ petitioner will suffer prejudice.

The rights of the parties in the pending writ petition will get affected.

In such circumstances, in my view, the writ petitioner has made out a prima facie case in its favour for grant of relief.

The balance of convenience is also in favour of the writ petitioner to pass an interim order protecting its rights.

Considering the facts and circumstances in the instant case, it would be appropriate to direct the West Bengal Small Industries Development Corporation Limited to maintain status quo of the plot concerned as on date till the disposal of the W.P.No.254 of 2012.

The status with regard to the plot concerned today is that it is under the possession of the West Bengal Small Industries Development Corporation Limited by virtue of padlock put by it at the plot concerned.

Affidavit-in-opposition by two weeks after the vacation as prayed by the respective counsel.

Reply thereto, if any, be filed by one week thereafter.

G.A.No.3136 of 2014 and W.P.No.254 of 2012 will appear on November 17, 2014.

The writ petitioner will be at liberty to use affidavit-of-reply in W.P.No.254 of 2012 within two weeks after the vacation.

The respondent authorities seek liberty to process the applications for the plot concerned.

The respondent authorities will be entitled to do so without making any final allotment during the pendency of the writ petition.

SBI (DEBANGSU BASAK, J.)

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