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Court : Kolkata

Decided On : Oct-28-2010

Judge : I . P. Mukerji, J.

Appeal No. : W.P.No.1223 of 2010

Appellant : Sudesh Kumar Sonthalia

Respondent : West Bengal Industrial Development Corporation and ors.

Advocate for Def. : Mr. Arindam Banerjee, ; Mr. S. Mukherjee, Advs.

Advocate for Pet/Ap. : Mr. Debol Banerjee, Sr. ; Mr. Kalyan Banerjee, Sr. Advs.

Judgement :
The Court: This is an application in aid of a writ petition. Both are being disposed of without calling for any affidavits. This is so because by a letter dated 20th October, 2010, which is annexure-F to the application in aid of the writ, the respondent corporation had threatened to take possession of the property in question on 25th October, 2010 at 1 p.m. Although it is submitted on behalf of the respondents that they have not taken possession on that day but the threat to take possession is imminent.

It appears that this attempt to take possession is further to alleged termination of the lease by the respondent corporation. I confine the scope of this writ to the

action contemplated in the above letter dated 20th October, 2010. In my opinion, the respondent No.1 cannot take possession in this fashion without recourse to law and without a specific order by an authority authorized by law permitting them to take possession. Therefore, the action contemplated by the letter dated 20th October, 2010 is quashed. It is made clear that the other questions involved in this writ have not been gone into. Either party will be at liberty to urge his or their rights in a proper forum under the law.

In my opinion, the other questions raised in this writ cannot be decided in a writ application but should be decided byan appropriate forum empowered to decide on termination of the subject lease and delivery of possession.

This writ application is accordingly disposed of. Since no affidavits have been exchanged, the allegations made in the writ petition should not be deemed to be admitted by the respondents. All parties concerned are to act on a signed photocopy of this order on the usual undertakings.

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