

Manish Agarwal and ors. Vs. Steel Authority of India Ltd.

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Court : Kolkata

Decided On : Mar-16-2011

Judge : Sanjib Banerjee, J.

Acts : West Bengal Premises Tenancy Act

Appeal No. : GA No. 144 of 2010; CS No. 322 of 2009.

Appellant : Manish Agarwal and ors.

Respondent : Steel Authority of India Ltd.

Advocate for Pet/Ap. : Mr. Debasish De; Mr. Raja Baliyal, Advs.

Judgement :

1. The defendant does not indicate any defence to the claim for eviction on the ground of expiry of lease by efflux of time. The defendant says a new management of the defendant has been installed at Bokaro and it is such Bokaro plant which is in possession of the suit premises. That the plaintiffs are the owners of the suit premises at the seventh floor of premises no.13, Camac Street, Calcutta-700 017 is not disputed.

2. The circumstances in which the defendant came to be in possession of the property and the documents executed between the parties have also been admitted since the statements contained in paragraph 6 of the affidavit in support of the Summons have not been questioned in paragraphs 10 to 13 of the affidavit-in-opposition. The defendant does not indicate that the defendant is entitled to

protection under the West Bengal Premises Tenancy Act, 1997. Paragraph 6(h) of the affidavit in support of the Summons claims the monthly rent to be in excess of Rs.51,000/- and a service charge component of over Rs.25,000/- for a total monthly pay-out in excess of Rs.77,000/-.

3. There is no denial of such fact in the defendants affidavit. In view of the case made out by the plaintiffs and the complete lack of defence of the defendant, there will be a decree in terms of prayer (a) of the Masters Summons dated January 13, 2010. Mr. Sarathi Dasgupta, Advocate, is appointed Special Referee for the purpose of assessing the mesne profits from the appropriate date which the plaintiffs have suggested to be September 7, 2009.

4. The Special Referee should complete the exercise within a period of four months from date and he will be paid a consolidated remuneration of 6000 GM to be shared by the parties in equal measure. In the event the defendant does not cooperate in the assessment of mesne profits, the Special Referee will be entitled to proceed in the absence of the defendant but by recording adequate reasons therefore.

5. GA No.144 of 2010 is allowed as above. The plaintiffs will also be entitled to costs of the application assessed at 200 GM. Urgent certified photocopies of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

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