

16.07.2024.
PB
Sl. No.35.
Ct. No.25.

WPA 18128 of 2024

DG Raj Highway Services
Vs
Union of India & Ors.

Mr. Saptarshi Roy,
Mr. Siddhartha Roy,
Ms. Kakali Das Chakraborty.
.....for the petitioner.

Mr. Dwijadas Chakraborty..
.....for the UOI.

The affidavit of service filed in Court today is taken on record.

In this motion, in spite of service of notice upon the respondent railways, no one is appearing for the railways, when the matter is taken up for hearing.

Mr. Roy, learned advocate appearing on behalf of the writ petitioner submits that his client is aggrieved with the purported action of the respondent in floating tender notice dated 1st July, 2024, in defiance of the order of stay of all further proceedings, passed by this Court earlier, against taking any coercive steps as against the petitioner by the respondent.

Mr. Roy shows the earlier order of this Court by the other Co-ordinate Bench passed in the writ petition being WPA 9998 of 2022, that is dated 30th June, 2022 and submits that the respondent/railways were directed to file unanimous resolution as to the problem put-forth before it by the petitioner, regarding hindrance being caused in continuing with the leasing operation by the petitioner. By referring to the other document Mr. Roy has submitted that subsequently, the railways have come up with a decision that no unanimous resolution as to the problem of the writ petitioner regarding continuation of the leasing operation, can be arrived at by it.

Later, the said order of railways were again challenged in the writ petition being WPA 2219 of 2022. In the same, the Court has restrained the respondent railways from taking any coercive action against the petitioner and such, interim order is extended till September 30, 2024. It has further been shown that, during subsistence of such interim order with respect to the same leasing operation, the respondent railways has floated the tender notice as above.

Mr. Roy indicates that opening of such tender, shall have every possibility of creating third party right and interest with respect to the lease operation of the

present petitioner whereas the Court has granted safeguard to his client by way of an interim order. He says that the tender notice and the process of tender as alleged in this writ petition is in complete violation of the Court's interim order passed earlier. He seeks an order of the Court, that no third-party interest, with respect to the said lease entered into by the petitioner and the railways, be immediately created.

So far as the leasing operation of the petitioner is concerned, the notice of tender suggests about the intention of the respondent railways to seek fresh tender in respect of the same leasing operation. It is noted that any coercive action of the writ petitioner has been directed to be stayed with respect to the same lease operation, by dint of this Court's order, which is effective till September 30, 2024.

Any step taken by the respondent authority having possibility of creation of any third party right with respect to the leasing operation or any other steps whatsoever, with respect to the same, cannot be maintained, in view of such interim order of Court, granted earlier in WPA 2219 of 2022.

In such circumstances, the tender operation as initiated by notice dated 1st July, 2024 is required to be stayed.

On the finding as above, the operation/ further operation of the tender notice dated 1st July, 2024 is stayed until further order in this regard.

Let this writ petition appear along with the other writ petition being WPA 2212 of 2022 in the list on 26.07.2024.

Later

Mr. Chakraborty, learned advocate appears at this stage for the respondent railways and submits about the non-receipt of instruction, by him, till some times back. He informs about receipt of a telephonic message of the matter being enlisted today, only belatedly. His presence may be noted.

He has sought time to come back later, with instructions. However, in view of flagrant violation by the railways, of this Court's interim orders (as above), no variation is made as regards the initial part of this order.

(Rai Chattopadhyay, J.)