

01
Jalpaiguri
20.05.2022
AK

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Side
From Principal Bench**

WPA 772 of 2022

DLX Limited and another
Vs.
State of West Bengal and others

Mr. Kishore Dutta
Mr. Sarathi Dasgupta
Mr. Pratik Ghose
Mr. Avishek Roy Chowdhury
.... for the petitioners.

Mr. Raja Saha
Mr. Biswabrata Basu Mallick
...for the State.

When the matter is called on for hearing, learned counsel appearing for the State-respondent submits that the auction sale which was fixed for the timber, which is the subject matter of dispute in the writ petition, has lapsed during pendency of the writ petition.

As such, it is submitted that the writ petition has become infructuous.

However, learned counsel appearing for the petitioners submits that in view of the nature of the challenge preferred in the present writ petition, it

cannot be argued that the writ petition has become infructuous.

It is further submitted by learned counsel that the substantial challenge in the present writ petition is, inter-alia, to the notice dated March 30, 2021 wherein it was indicated that the ownership of the harvested timber was questioned by the respondent authorities.

There is substance in such submission of learned counsel for the petitioners, since the subject matter of the challenge cannot be said to be restricted only to the auction process, which stands lapsed.

Hence, since *prima facie* questions of law are involved, including whether the petitioners' Tea Estate or the State is the owner of the timber which has already been felled, this writ petition is required to be heard on the said questions.

Hence, the matter shall be enlisted for final hearing on June 15, 2022 at 2 p.m.

The respondent authorities are restrained from finally concluding any auction process in respect of the timber, which is the subject matter of the present writ petition, if held in the meantime, till June 30, 2022 or until further order, whichever is earlier.

(Sabyasachi Bhattacharyya, J.)