

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

80 05.9.2024
Sc Ct. no.2

**WPA 772 OF 2022
with
I.A. No. CAN 2 OF 2024**

DLX Limited & Anr.

Vs.

State of West Bengal & Ors.

Mr. Sarathi Das Gupta
Mr. Pratik Ghosh
Mr. Debajit Kundu.

....For the Petitioners

Mr. Joyjit Choudhury, Ld. A.A.G.
Mr. Subir Kumar Saha
Mr. Nabankur Paul
Mr. Pradip Sarkar.

....For the Respondents
State

This is a hearing matter.

The order dated **February 8, 2023** and the subsequent order dated **April 8, 2024** speak for themselves.

The direction of this Court in the said two orders are partially carried out as would be evident from the report filed in the form of affidavit by the respondent no.4, which is on record. The relevant paragraphs from the report are quoted below :

“3. Through this Report the answering Respondent seeks to appraise this Hon’ble Court that in compliance of the solemn order dated 08.04.2024 the respondent no. 4 duly communicated the aforesaid order to the two newly impleaded respondents and accordingly the

Divisional Manager, Darjeeling Forest Corporation Division, Siliguri, West Bengal Forest Development Corporation Limited vide memo no. 511/1 dated 09.04.2024 communicated me to collect demand draft bearing no. 008636 dated 09.04.2024 amounting to Rs.31,95,602.00 and in compliance of the aforementioned direction of the Hon'ble High Court, respondent no. 4 had deposited the said amount being the auction proceeds vide demand draft with the Learned Registrar, Circuit Bench, Jalpaiguri on 12.04.2024 by way of a written communication bearing memo no. 992/17T-44 dated 12.04.2024 against proper receipt.

Photostat copies of the letters bearing memo no. 511/1 dated 09.04.2024 and memo no. 992/17T-44 dated 12.04.2024 are annexed herewith and collectively marked as Annexure 'R-1'.

4. It is pertinent to note that till date e-auction had been conducted by the West Bengal Forest Development Corporation Limited and in that auction, out of 141 nos. of timber lots of volume 201.962 m³, 59 nos. of timber lots of volume 90.986 m³ has been sold so far and 82 no. of timber lots of volume 110.976 m³ still remains unsold. Furthermore, the bidders are reluctant to participate in the auction and purchase the remaining unsold timber for the reason that Glenburn Campsite Depot is located in a remote area having very difficult hilly terrain and the approach road towards the Depot is very rough, not in a good condition and steep. Thus, due to such difficulties, it has become difficult for timber merchants to lift the timber lots from Glenburn Campsite Depot especially during the rainy season. Moreover, the lots remained unsold apparently due to high lifting and logistic costs, besides, there are chances of theft of the timber lots from the existing storage site where the timber lots are presently placed. Further,

it is pertinent to mention that there exists a consistent threat of damage by fire of the timber lots as the same said lots are kept in an open space exposed to sunlight and is in close proximity with forest area containing dried leaves and twigs which are constantly catching fire on its own when exposed to sunlight during summer season. Hence it an earnest request on behalf of the answering respondent herein that the aforementioned unsold timber lots needs to be urgently shifted from its present location to Badamtam Range Compound Depot which is much safer and accessible location, and is located at an aerial distance of only 2 KM from the present storage site. This will make the goods/articles much safer as well as possibility of auction will be much higher especially because it shall increase the feasibility of the sale of produce. However, this entire proposed exercise involves expenditure which can be realized from the sale proceeds of the remaining unsold timer lots.

5. In the abovementioned circumstances, the answering respondent no. 4 submits that in order to implement and/or execute the direction of this Hon'ble Court made by coordinate bench on February 8, 2023, answering respondent seeks the permission of this Hon'ble Court to take necessary measure for shifting of the remaining unsold timber lots from Glenburn Campsite Depot to Badamtam Range Compound Depot to increase the feasibility of the auction proceeds of the remaining unsold timber lots and realize the expenditure to be incurred for transportation and logistics thereof from the auction proceeds of the remaining unsold timber lots."

Insofar as the **82 nos. of Timber lots** comprising of a volume of **110.976 m3** Still

remains unsold shall have to be sold by way of E-auction in accordance with law. This position has also been admitted by both the petitioners and the respondents.

In sync with the contentions of the respondent no.4, as would be evident from the affidavit-report as quoted above, a joint inventory shall be held in presence of the respondent no.6 by himself or by a responsible officer of the concerned forest range to be delegated by the respondent no.6 and a duly authorized representative of the petitioners in respect of the said **82 numbers of Timber lots** remained unsold, before removal of the same from the place where it is lying at present to a place already earmarked by the respondent no.6 and the inventory report shall be signed jointly by the said parties. As suggested by the parties present in Court today, such inventory shall take place during the period between **September 18 to September 20, 2024** from **10 a.m.** every day til the inventory is complete.

After completion of the said inventory, the respondent no.6 shall be free to remove the said unsold **82 numbers of Timber lots** to the earmarked place wherefrom they shall proceed further to hold the necessary E-auction in accordance with law to sell the said Timber lots.

Whenever the sale shall take place, the entire sale consideration shall be received by the respondent no.6 and/or the appropriate authority of the Forest Department within **a week** from the date of receipt of such sale consideration, the respondent no.6 and/or the appropriate authority shall deposit the said sale consideration with the learned **Registrar, Circuit Bench at Jalpaiguri**.

The learned **Registrar, Circuit Bench at Jalpaiguri** shall invest the said sale consideration in an interest bearing Fixed Deposit account where the previous deposit has already been kept and the learned **Registrar, Circuit Bench at Jalpaiguri** shall file a report with regard to the previous deposit and the present deposit before the Court when the matter shall be taken up next.

It is made clear that, if the sale takes place in piecemeal, then the total sale consideration to be received in piecemeal for such piecemeal sale shall also be deposited within the period as directed above with the learned Registrar, who shall keep the same in a fixed deposit and shall file a report as directed above.

After completion of the aforesaid exercise of the sale of the entire **82 numbers of Timber lots**, the parties shall be at liberty to mention this writ petition for inclusion under the heading “**Hearing**”

before the available Circuit Bench then, subject to its convenience and upon notice to each other.

On the prayer of the learned Additional Advocate General time to file affidavits-in-opposition stands peremptorily extended till ***November 5, 2024***. Affidavit-in-reply thereto shall be filed on or before ***November 26, 2024***.

(Aniruddha Roy, J.)