

OD-2

IA No. GA/21/2022
In
CS/144/2016

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

SQUARE FOUR ASSETS MANAGEMENT & RECONSTRUCTION CO. P. LTD. & ORS.
-VS-
ORIENT BEVERAGES LTD. & ORS.

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : June 16, 2022.

Appearance:

Mr. Ratnanko Banerji, Sr. Adv.
Mr. Zeeshan Haque, Adv.
Ms. Sristi Barman Roy, Adv.
Mr. Dhilon Sengupta, Adv.
Mr. Subranil Dey, Adv.
Ms. Sudipta Paul, Adv.

Mr. Kaushik Banerjee, Adv.

Mr. Suman Kr. Dutt, Adv.
Mr. Arijit Basu, Adv.

The Court : This application is by the defendant no.3, Steel Authority of India Limited (SAIL) drawing the attention of the Court to a continuing water scarcity problem in the concerned premises.

The correspondence on record between the applicant/defendant no.3, SAIL and the plaintiff, Square Four from 10th February, 2021 onwards indicates that the parties agreed to resolve the availability of water in the premises by taking certain measures. It was also agreed that the applicant SAIL and the plaintiff would share the expenses for undertaking these measures.

The dispute appears to be reflected from a letter dated 22nd April, 2022 to point to SAIL facing a scarcity of water by reason of the infrastructure which is presently in place. A recent exchange of letters of 18th May, 2022 from SAIL records that SAIL is not getting proper water supply and the fact that both submersible pumps in the said premises are in the control of the plaintiff, Square Four. The reply of Square Four of 23rd May, 2022 states of the existence of an old borewell in the premises and that the defendant no.3 has been running a chiller unit in the premises which has aggravated the problem. Square Four, however, as a good gesture, has pointed out to the fact that it has already taken steps to resolve the crisis.

The objection to the application is the outstanding occupational charges of Rs.140 crores (from 1st October, 2015 on claim of occupation charges of Rs.165 per sq.ft.) and Municipal Corporation taxes of Rs.18 crores from the applicant. Learned counsel also submits that the pleadings indicate that the problem has been continuing since 2018. The position in relation to the Municipal Corporation dues has been disputed by learned counsel for the applicant who submits that the demand of the Municipal Corporation has presently stayed and the applicant is waiting for a hearing in the matter.

Upon hearing learned counsel, this Court is of the view that although a suit for eviction is pending against the defendant no.3/applicant and occupational charges are due from the applicant, the continuing problem with regard to scarcity of water should be looked into while the applicant remains in occupation of the premises. The problem is of a technical nature which would have to be enquired into by a person having the required expertise. The enquiry

should hence be in the form of a report to be filed by a competent person of the Kolkata Municipal Corporation who should look into the aspect of the infrastructural defects, if any, in the premises and how best to resolve it.

Mr. Siddhartha Banerjee, learned counsel, assisted by Mr. Arjun Mookherjee, learned counsel of the Bar Library Club, are appointed as Special Officers to look into the problem and file a report with the assistance of a competent person from the Kolkata Municipal Corporation who will undertake a survey of the concerned premises. Mr. Banerjee shall be at liberty of getting in touch with the KMC for the purpose of carrying out the directions of this Court. The remuneration of the Special Officers shall be Rs. 35,000 each to be borne by the applicant/ defendant no. 3. The report will also indicate the source of the problem and the best way to solve it so that the water supply is restored to its optimal capacity as expeditiously as possible.

Since the plaintiff should be at liberty to bring relevant facts on record, affidavit-in-opposition is to be filed within three weeks, as prayed for. Reply within two weeks thereafter.

List this matter after five weeks.

The observations made in this order should not be construed as findings of Court.

(MOUSHUMI BHATTACHARYA, J.)