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Date: 18/10/2025

Premier Mica Mining and Manufacturing Company Vs The Competent Authority Barrackpore

F.M.A. No. 1055 of 2013 and C.A.N. No. 9750 of 2012

Court: Calcutta High Court

Date of Decision: Dec. 5, 2013

Citation: (2014) 1 CHN 553

Hon'ble Judges: Subhro Kamal Mukherjee, J; Sahidullah Munshi, J

Bench: Division Bench

Judgement

1. Although the matter is appearing under the heading "application", by consent of Mr. Saktinath Mukherjee, learned senior advocate appearing

for the appellants, and Mr. Sundarananda Pal, learned senior advocate appearing for the respondents, we take up the hearing of the appeal itself

by treating the same as on day"s list. All formalities are dispensed with. The writ petitioners were the owners of a vast area of land. Therefore, a

proceeding was initiated under the Urban Land (Ceiling and Regulation) Act, 1976.

2. The Competent Authority passed its order declining that certain lands were excess lands and the decision of the Competent Authority was

communicated to the writ petitioners under memo dated March 21, 1997.

3. The writ petitioners make a representation to the Competent Authority to re-consider its matter on the ground of pronouncement of the

judgment of Supreme Court of India in the case of State of Maharashtra and Another Vs. B.E. Billimoria and Others, and other subsequent

judgments.

4. Since the representation was not considered, the writ petitioners approached this Court with an application under Article 226 of the Constitution

of India.

5. The Hon"ble Single Judge rejected the said application on the ground that the order of the Competent Authority was an appellable order and,

therefore, the writ petitioners were not entitled to maintain the writ petition without preferring the appeal.

6. We are of the opinion when there has been changing law during the pendency of the proceeding, justice demands that the authority should

consider the matter in the background of changed pronouncement of the Supreme Court of India.

7. We, therefore, set aside the order impugned and direct the Competent Authority at Barrackpore, under the Urban Land (Ceiling and

Regulation) Act of 1976, to consider the representation dated December 28, 2011 submitted by the petitioners by passing a reasoned and

speaking order, after giving opportunity of hearing to the writ petitioners and any other person interested in the matter, within two months from the

date of communication of this order.

8. With the aforesaid directions, the appeal and the connected application stand disposed of. We make no order as to costs.