

HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A_

WA. No.117 of 2022

Tripura Schedule Caste Co-operative Development Corporation Ltd. & Others

.....Petitioners

-V-E-R-S-U-S-

Sri Sanjoy Das & Others

.....Respondents.

For Petitioner(s)	:	Mr. K. De, Addl. G.A.
For Respondent(s)	:	Mr. P. Roy Barman, Sr. Advocate. Mr. S. Bhattacharjee, Advocate.
Date of hearing and delivery of judgment and order	:	18.12.2023
Legal reporting	:	YES/NO

HON'BLE MR. JUSTICE T. AMARNATH GOUD
HON'BLE MR. JUSTICE BISWAJIT PALIT

_J_U_D_G_M_E_N_T_O_R_D_E_R_[ORAL]

Heard Mr. K. De, learned Addl. G.A. appearing for the appellant also heard Mr. P. Roy Barman, learned senior counsel assisted by Mr. S. Bhattacharjee, learned counsel appearing for the respondent.

[2] The present appeal has been filed under Chapter-VA (2)(2) of the High Court Rules, from the judgment and order dated 10.05.2022 passed in WP(C) No.03 of 2022 along with writ petition.

[3] The petitioners have prayed for the following reliefs:

i. Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other order/orders shall not be issued whereby directing the Respondents to appoint 2(two) whole time members of the Real Estate Regulatory Authority, Tripura (T- RERA), in terms of the Real Estate Act, 2016.

(ii) Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other order/orders shall not be issued whereby directing the Respondents to adjudicate the complaints filed by the Petitioners before the Respondents which are pending since 10.06.2022.

AND

Call for the records pertaining to the instant Writ Petition from the custody of the Respondents and to make the rule absolute.”

[4] The facts in brief are that by a notification dated 30.08.2007, the appellant distributed market stalls of 44 in numbers amongst which 15 are reserved for SC category people, 16 are reserved for ST category people, 5 are reserved for Minority category people and rest are reserved for OBC category people. By an interview the stalls were allotted putting rate per month and taking Rs. 15,000/- as a security deposit. The appellants by another advertisement dated 23.12.2021 inviting persons concerns put their tender for 15 market stalls in the ground floor of the appellant constructed building.

[5] By the said notification it has been clarified that the existing occupiers also can submit their tenders following clearance of rent. The respondents by a joint petition challenged this notification dated 23.12.2021 by a writ petition on the ground that the respondents expected to a permanent arrangements *vis-a-vis* they have no other alternative accommodation. Accordingly, the Ld. Single Judge allowed the writ petition of the respondents. Being aggrieved, the appellants filed this instant writ appeal.

[6] Mr. K. De, learned Addl. G.A. appearing for the appellant has submitted that the learned Single Judge should have dismissed the writ petition for want of any lawful case of action. The learned Judge allowed the writ petition on the basis of submission of the conducting counsel which is not available in the pleadings and therefore, the impugned judgment is required to be interfered with.

[7] The learned Single Judge has failed to appreciate that the fresh advertisement was made in accordance with law for smooth functioning of the corporation and particularly when the lease agreements were not renewed and such direction of this Court therefore is required to be set aside. None of the writ petitioners in the writ petition made any prayer to the appellants prior to the expiration of the lease period or posterior thereto to renew the license and in absence of such agreed situation the direction is required to be interfered with.

[8] It has been further contended that the on earlier occasion choose the processing allotment of stalls through lottery and interview and thereby allotted lease on written agreement for five years that was entered into between the parties with terms of renewal and cancellation after five years. It is further submitted in 112th minutes Board meeting dated 06.12.2021 it is decided that all

market stall of Tripura Schedule Caste Co-operative Development Corporation Ltd. will be allotted freshly by calling open tender through news paper published by 20.12.2021 since no renewal took place.

[9] Mr. P. Roy Barman, learned senior counsel assisted by Mr. S. Bhattacharjee, learned counsel appearing for the respondents has submitted that the respondents herein are depriving from their allotted market stalls allotted through advertisement followed by fair and transparent selection process by inviting application from residents of Tripura for allotment of 15 stalls including 10 stalls allotted to the respondents herein at corporation market, vide notification dated 23.12.2021. Besides that the respondents expected to be an agreement of allotment as permanent. The alternative accommodation is not available.

[10] In view of above submissions made by the learned counsel appearing for the parties, this Court is of the view that the contention of the appellant that there is no intention to dispossess the respondents herein and to deprive their livelihood and on the other hand, steps were also taken in respect of certain unoccupied or vacant premises for filling up. Apprehending that they would be evicted the petitioners, the respondents herein approached this Court by filing writ petition.

[11] The appellant further submitted that in terms of the notification which is issued there will be some reasonable enhancement and the same would be implemented by way of fresh lease agreement and thus, it would be revenue generation since there is an escalation and improvement in the market. Considering the submissions made by the appellant and after hearing Mr. Roy Barman, learned senior counsel appearing for the respondent-writ petitioners while indicated by this Court that the interest of his clients would be protected without evicting them. He only prayed that some reasonable enhancement in respect of the lease amount would always be appreciated.

[12] It is needless to say that day by day the State of Tripura is improving and the real-estate values are also raising and in view of the same, it is always better some reasonable enhancement is made. According to the appellants it's a welfare corporation for SC persons and they would not do profitable business with its members who belong to the weaker section i.e. the SC community.

[14] In view of the submissions made, this Court finds that reasonable increase in the lease amount is always permissible and also the interest of the respondents. The petitioners' interest should be protected as the balance of convenience is there in their favour. The writ petitioners are also directed to cooperate with the appellants for complying with the formalities of renewing the lease deed as indicated by the appellants.

[15] In view of above observations, the present appeal preferred by the petitioner stands disposed of. As a sequel, miscellaneous applications pending, if any, shall stand closed.

B. PALIT

T. AMARNATH GOUD, J

A. Ghosh

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