

GAHC010193782023



undefined

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/5121/2023

SHEHABUDDIN AHMED
S/O- LATE ABDUL MANNAN, R/O- KHAGAIL, P.O. AND DIST. KARIMGANJ,
ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, PUBLIC WORKS DEPARTMENT, DISPUR, GUWAHATI-6.

2:THE CHIEF ENGINEER

PWD (ROAD)
ASSAM
CHANDMARI
GUWAHATI-03.

3:THE EXECUTIVE ENGINEER

PWD
KARIMGANJ
AACP DIVISION
PATHERKANDI
KARIMGANJ
PIN- 788724.

4:THE ASSISTANT EXECUTIVE ENGINEER

PWD
KARIMGANJ
AACP DIVISION
KARIMGANJ
PIN- 788710.

5:THE EXECUTIVE ENGINEER
PWD

SILCHAR BUILDING DIVISION
SILCHAR-788001.

6:THE CIRCLE OFFICER

KARIMGANJ CIRCLE
KARIMGANJ
ASSAM
PIN- 788710

Advocate for the Petitioner : MS. R CHOUDHURY, MR. A H M R CHOUDHURY,MR N RAHMAN

Advocate for the Respondent : GA, ASSAM, SC, PWD

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

27-11-2024

Heard Ms. R. Choudhury, learned counsel for the petitioner. Also heard Mr. S. Baruah, learned Government Advocate, Assam, 1 to 5 and Mr. P. Nayak, learned Standing Counsel, Public Works Department for the respondent no.6.

2] This writ petition is a subsequent writ petition filed by the petitioner praying for a direction to the respondents to calculate the fair rent payable to the petitioner for the premises which were under the occupation of the P.W.D. from April, 2015 to November, 2019 and for which the rent for the period under operation of the Department has been paid but the same was not on the basis of the fair rent required to be calculated for the period concerned. As per the

documents enclosed to the writ petition, learned counsel for the petitioner submits that for the period prior to 01.04.2015 the fair rent has been calculated and paid to the petitioner. However, for the period of 01.04.2015 to 31.03.2018 the fair rent was calculated at the earlier rate not at the enhanced rate and the amount of Rs.2,38,248/- has already been released to the petitioner. The petitioner's grievance is that the balance amount for period 01.04.2018 to 31.11.2019 payable to the petitioner at the enhanced rates has not been paid to him.

3] It is submitted that there was step taken by the Department for recalculation. However, no information is forthcoming from the Department. The petitioner has referred to an earlier order passed by this Court in WP(C) No.1385/2020 which was disposed of vide order dated 22.06.2022, whereby the P.W.D. Department was directed to expedite the release of rental amount due to the petitioner in respect of the premises occupied on rent by the Department belonging to the petitioner. The further direction was to the Circle Officer Karimganj to furnish the revised rent applicable under the Assam Urban Rent Control Act, 1972 in respect of the premise belonging to the petitioner which was taken on rent by the Department and produced the same to the P.W.D. Department. It is submitted that notwithstanding this direction, the Circle Officer, Karimganj has not published the revised rent.

4] As per order dated 08.05.2024 passed in this writ petition, the petitioner was permitted to approach the respondent no.6, namely, the Circle Officer, Karimganj Circle by filing necessary application for fixation of the zonal valuation of said plot of land. It is submitted that pursuant to the liberty granted by this Court on 08.05.2024, the petitioner has approached the Circle Officer, Karimganj Circle. However, the application is still pending and no order has been passed. Being aggrieved, the present writ petition has been filed seeking a direction to the respondents to calculate the rent due to the petitioner as per provisions of Assam Urban Rent Control Act, 1972.

5] The respondent P.W.D. has filed their affidavit showing the particulars of the amount paid. According to the Department, the entire amount has been paid including the amount for the period 01.04.2015 to 31.03.2018 at the rate of Rs.6618/- per month. Learned Standing Counsel, P.W.D. submits that since the rent for the period 01.04.2015 to 31.03.2018 has already been paid to the petitioner, the Department can also take steps to release the balance amount, if found payable.

6] This Court by earlier order dated 22.06.2022 passed in WP(C) No.1385/2020 had directed the P.W.D. to release the rent payable to the petitioner and also directed the Circle Officer, Karimganj to intimate the fair rent

for the concerned bill and the writ petition with the disposed of. It is also necessary to refer to the provisions of the Assam Urban Areas Rent Control Act, 1972. In so far as the procedure for determination of the fair rent is concerned, the Act prescribed for a detailed procedure under Section 4 of the Act where it is provided that in case of any dispute regarding the rent payable in respect of any house, it shall be determined by the Court. Under Section 2A of the said Act, that Court is defined as a Court of Ordinary Civil Jurisdiction in the area in which a house is situated which would be competent to pass a decree for eviction of a tenant from that house. Having noticed the provisions of the Assam Urban areas Rent Control Act, 1972, it is clear that the statute lays down a clear and definite procedure for fixing the rent due and for recovery of the same and procedure that may be adopted in that event.

7] In terms of the liberty granted by this Court by the order dated 08.05.2024 passed in the present writ petition as well as in view of the order dated 22.06.2022 passed in WP(C) No.1385/2020, whereby this Court had directed the Circle Officer, Karimganj to release the fair rent of the petitioner, learned counsel for the petitioner submits that the petitioner has also filed a representation before the concerned Circle Officer claiming his due rent. This Court does not consider it necessary to enter into the dispute of deciding whether a specific order should be issued to the respondents to pay any fair

rent, as the Assam Urban Areas Rent Control Act, 1972 clearly lays down the procedure for resolving such disputes. If the petitioner is aggrieved then the petitioner may approach the competent authority under the said Act.

8] Therefore, this Court is not inclined to pass any direction to the respondents Department to calculate and/or release any rent payable to the petitioner. However, considering that this Court by order dated 08.05.2024 permitted the petitioner to file the representation before the Circle Officer, Karimganj Circle and which the petitioner claims to have filed, the Circle Officer, Karimganj Circle is directed to dispose of the said representation within a period of 15 (fifteen) days from the date of receipt of the certified copy of this order to be furnished by the petitioner. Any order that may be passed as per the provisions, a copy thereof shall be furnished to the petitioner, save and except as directed above, no further order can be issued in the present writ petition.

9] This writ petition stands disposed of in terms of the above.

JUDGE

Comparing Assistant