

N.22Sl

151/CL
15.09.26
DL-05
Ct.-19
(S.R.)

WPA 13497 of 2022

Gopal Dasgupta & Ors.

v.

The State of West Bengal & Ors.

Mr. Haradhan Banerjee
Mr. Partha Pratim Mukhopadhyay
Mr. Suresh Kumar Sahoo ... for the petitioners.

Mr. Lokenath Chatterjee
Ms. Mary Dutta ... for the HIT.

1. The instant matter is listed today under the heading ***“Extension of Interim Order”***.
2. The subject matter of the instant writ petition is the impugned notices dated 24.06.2022 issued by the Estate Officer of the Howrah Improvement Trust to the different persons in respect of different shop rooms. By the said impugned notices, the Estate Officer directed the said persons to shift their business from their respective separate shop rooms to newly constructed separate shop rooms. The aggrieved persons conjointly approached this Court by filing the instant writ petition.
3. At the time of hearing, this Court requests Mr. Banerjee, learned advocate appearing on behalf of the writ petitioners to satisfy as to how the instant writ petition is maintainable under Order 2 Rule 3

of the Code of Civil Procedure, which deals with the subject of joinder of causes of action.

4. It is submitted by Mr. Banerjee that on perusal of paragraph 2 of the instant writ petition, it would reveal that it is the specific case of the writ petitioners that the impugned eviction notices are identical, which affects all the writ petitioners equally and severally and, thus, a common cause of action and common question of law are involved in the instant writ petition.
5. For proper appreciation of the argument of Mr. Banerjee, this Court at the very outset proposes to look to Order 2 Rule 3 of the Code of Civil Procedure, which reads as under: -

“Joinder of causes of action. (1) Save as otherwise provided, a plaintiff may unite in the same suit several causes of action against the same defendant or the same defendants jointly; and any plaintiffs having causes of action in which they are jointly interested against the same defendant or the same defendants jointly may unite such causes of action in the same suit.

(2) Where causes of action are united, the jurisdiction of the Court as regards the suit shall depend on the amount or value of the aggregate subject-matters at the date of instituting the suit.”

6. On careful perusal of the aforementioned legislative provision, it appears that it is the legislative

mandate that any plaintiffs having causes of action in which they are jointly interested against the same defendant or the same defendants jointly may unite such causes of action in the same suit.

7. It is trite that the provision of the Code of Civil Procedure equally applies to the writ petitions in terms of Rule 53 of the Calcutta High Court Appellate Side Rules, relating to applications under Article 226 of the Constitution.
8. At this juncture, if I look to the impugned notices, as have been annexed at page nos.72 to 81 of the writ petition, it appears that the said impugned notices, as have been issued by the Estate Officer, were directed against different persons in connection with different shop rooms.
9. In view of such, this Court has got no hesitation to hold that the writ petitioners cannot have any joint interest against the same defendant, since the present writ petitioners claim themselves as separate tenants in respect of separate shop rooms under the respondent authorities.
10. In view of such legal position, this Court holds that the instant writ petition is not maintainable in its present form and is hereby dismissed.
11. The interim order as passed on April 18, 2024 and as has been extended from time to time stands hereby vacated.

12. All pending interlocutory applications, if there be any, are also dismissed.
13. There shall, however, no order as to costs.
14. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)