HIGH COURT OF TRIPURA
AGARTALA

WP(C) No.462/2020

Shyamalima Apartments' Welfare Society, New Capital Complex,
P.O. P.S. NCC, District - West Tripura,
represented by its Secretary, Sri Mohanlal Saha,
S/o Late Abani Mohan Saha.

…….. *Petitioner(s).*

Vs.

1. The State of Tripura,
   represented by the Secretary,
   Public Works Department (R & B),
   Civil Secretariat, new Capital Complex,
   P.O & P.S. NCC, District West Tripura.

2. The Administrative Officer,
   Tripura Housing and Construction Board,
   Agartala, West Tripura.

3. The Chief Executive Officer,
   Tripura Housing and Construction Board,
   Agartala, West Tripura.

…….. *Respondent(s).*

For petitioner(s) : Mr. Pradyut Kr. Dhar, Advocate,
Mr. R G Chakraborty, Advocate.

For respondent(s) : Mr. D Sharma, Additional Government Advocate.

HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI

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05/8/2020

The petitioner is an association of apartment holders of one Shyamalima Apartment constructed by the Tripura Public Works Department and which is situated in the New Capital Complex.

According to the petitioner-association, they are the owners of the entire plot of land with superstructure carried out thereon. An agreement to this effect has also been executed in favour of the petitioner. Learned counsel for the petitioner would point out that even the estimation of the cost refers to this aspect of the matter. Despite this, the respondents subsequently constructed certain shops in the said complex. They now proposed to allot the shops to members of the public for which notice has been issued. The petitioner objects to this mode of allotment contending that no shops could have been constructed in the residential complex. That the members of the petitioner-association being the owners of the land, in any case, the respondents had no longer the authority to carry out the construction and lastly, that if at all such shops are to be allotted, the same must be allotted to the residents of the said complex.

In my opinion, examination of all these aspects would involve ascertainment of facts. Disputed facts would be involved in the process.

Further, the issues flow from contractual relationship between the parties. Under the circumstances, writ petition is not an appropriate remedy. It would be open for the petitioner to file a civil suit before competent Court. All contentions are kept open. Petition along with interlocutory application disposed of.

(AKIL KURESHI), CJ

HIGH COURT OF TRIPURA

Sukhendu