

14
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Ct. No. 13
01.10.2020

**W.P.A. 5389 of 2020
CAN 2 of 2020 (Old No : CAN 4938 of 2020)
(Via Video Conference)**

**Mahadeb Ghosh & Ors.
Vs.
Durgapur Municipal Corporation & Ors.**

Mr. Anirban Ray,
Mr. Prantik Garai,
Mr. Arnab Basu Mullick,
Ms. Richa Raman ... For the petitioners.

Mr. Sandipan Banerjee ... For the respondent
Durgapur Municipal Corporation.

The petitioners are claiming to be the tenants under the Durgapur Municipal Corporation, the respondent no. 1 herein in respect of a market complex named as “Shahid Sukumar Bipani” consisting of two floors at Durgapur within District Paschim Burdwan.

The petitioners are challenging the notice dated May 4, 2020 issued by the respondent no. 1 asking the petitioners to vacate the said property by May 5, 2020 positively and to hand over the vacant possession of the same in default the possession was directed to be taken up by May 6, 2020 at 1 p.m.

Mr. Sandipan Banerjee, learned counsel appearing on behalf of the respondent Durgapur

Municipal Corporation submits that his client intends to withdraw the said notice to take appropriate steps in accordance with law to evict the petitioners from the said property.

Mr. Ray, learned advocate appearing on behalf of the petitioners submit that since his clients have also challenged the letter dated April 22, 2020 whereby the municipal authority has demanded Rs. 18,15,000/- on account of rent of the said premises the said issue may also be determined.

The main challenge in the writ petition is the notice to quit dated May 5, 2020. The respondent Municipal Authority since is not willing to proceed with the said notice with a view to take appropriate step to evict the petitioners from the aforementioned property in accordance with law no order need be passed in the matter.

The constitutional writ jurisdiction under Article 226 of the Constitution of India cannot be invoked to decide the dispute with regard to the rate of rent or the amount of arrear rent payable as such challenge to the notice of demand dated April 22, 2020 is misconceived in the present proceeding and is not entertained.

However, this order will not preclude the petitioners from raising dispute with regard to the

rate of rent of the said property and/or amount of the arrear rent payable before the appropriate forum in accordance with law.

W.P.A 5389 of 2020 is disposed of with the above terms, connected application being CAN 2 of 2020 (Old No: CAN 4938 of 2020) is also disposed of accordingly.

No order as to costs.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)