

S/L 2
08.07.2021
Court. No. 19
GB

W.P.A. 11171 of 2021

Netai Adhikary @ Nitai Adhikari & Ors.
Vs.
The State of West Bengal & Ors.

(Through Video Conference)

*Mrs. Reshmi Ghosh,
Mr. Koustav Bagchi,
Mr. Debayan Ghosh.*

...for the Petitioners.

*Mr. Mrinal Kanti Das,
Mr. Subhabrata Das,
Mr. Kartick Goyal.*

...for the State.

This writ petition was moved on urgent basis alleging that the municipal authorities have been demolishing the tenanted property of the petitioners. It is the further contention of the petitioners that the municipal authorities have issued some notice declaring the premises to be a dangerous one and on the basis of such notice they have been demolishing the tenanted property allegedly occupied by the petitioner for their business purpose.

It is further submitted that the according to Section 223 of the West Bengal Municipal Act, 1993, the owner and any person interested in a building, which according to the municipal authorities required demolition, should be put on notice before any order of demolition is passed.

It is further submitted that the petitioners did not get any such notice. Although the petitioners approached the

municipal authorities, they were not entertained and they were informed that the demolition was being done in exercise of power conferred under Section 223 of the West Bengal Municipal Act, 1993, and a notice to that effect had already been issued.

Mr. Das, learned advocate appearing on behalf of the municipal authorities denies each and every allegation of the writ petitioner. Mr. Das submits that the writ petition has been filed by dragging the municipality into the picture only to avoid the remedy before a civil court. He refers to the letter written by the petitioners written to the Chairman of the municipality concerned, where it has been categorically stated that the landlord had been trying to demolish the tenanted portion.

I have considered the representation made by the petitioners to the Chairman of the municipality concerned. It appears from the said letter that the allegations of the petitioners are totally against the landlord.

Under such circumstances, no direction can be passed on the municipality, as it is the specific case of the municipality that the municipality has not undertaken any demolition work at all.

The writ petition is disposed of without any order as the remedy of the petitioner lies in a civil suit.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)