

D/L
Item No. 8
24.11.2021
KOLE

**FMA 936 of 2020
WITH
CAN 1 of 2021**

**Alipriya Cooperative Housing Society Ltd. & Ors.
-Vs.-
The State of West Bengal & Ors.**

*Mr. S. Kr. Basu,
Mrs. M. Das*

.... For the appellants.

*Mr. P. Kr. Roy, Ld. Standing Counsel,
Mr. S. Sarkar,
Mr. J. Roy,*

...for the State.

Mr. P. C. Bhattacharjee,

...for the respondent no. 5.

This is an appeal against the judgment and order dated November 28, 2019 passed by the learned Single Judge whereby WP No. 21627 (W) of 2019 was disposed of.

The brief facts of the case are that the writ petitioner was a founder member of a Housing Society. He applied for a flat. His membership of the Society was suddenly cancelled and he has told that he will not be allotted the flat. Being aggrieved, he caused arbitration to be initiated before the Registrar of Cooperative Societies, West Bengal. The arbitrator published an award dated August 7, 2018, whereby the cancellation of membership of the writ petitioner was set aside and it was directed that the writ petitioner be allotted the flat against payment of stipulated consideration. The award was challenged before the West

Bengal Cooperative Tribunal. The Tribunal upheld the arbitral award.

Thereafter, the writ petitioner tendered the sum of Rs. 22 lakhs to the Society. The Society refused to accept such money. Being aggrieved, the writ petitioner approached the learned Single Judge. The learned Single Judge allowed the writ application after recording the entire history of the case and observed that there is absolutely no ground for interfering with the arbitral award or the Tribunal's order. The Housing Society has filed the present appeal.

We have heard learned Counsel for the parties. We are in complete agreement with the learned Single Judge. We have seen the arbitral award as well as the Tribunal's order. Both are supported by cogent reasons. We are unable to appreciate why the Housing Society shall not accept the price of the flat and allot the flat to the writ petitioner.

The Society says that it has filed a review application against the order of the Tribunal. The Learned Single Judge has made it clear that the Tribunal will consider such review petition without being influenced by any observation in the order impugned herein. The review application may take its own course in accordance with law. However, the Housing Society cannot take the excuse of the pendency of the review petition for an indefinite period of time in denying allotment of flat to the writ petitioner. We clarify that the review application shall be considered by the Tribunal untroubled by any observation made in this order.

We find no merit in the appeal. The appeal and the connected application are dismissed accordingly.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Arijit Banerjee, J.)

(Kausik Chanda, J.)