

OD -5

WPO 111 of 2021
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

BEML LIMITED
VS
STATE OF WEST BENGAL AND ORS.

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date : April 20, 2021.

[Via Video Conference]

Appearance:
Mr. Aniruddha Mitra, Adv.
Mr. Ayan Chakraborty, Adv.
... for petitioner

Mr. Shayak Chakraborty, Adv.
Mr. Paritosh Sinha, Adv.
...for State of WB.

The Court : Despite repeated service, none appears for respondents no. 2 to 5, although the petitioner as well as the State of West Bengal are represented through Counsel. The primary grievance of the petitioner is that, in spite of being allotted certain flats as long back as in the year 1988 and the necessary formalities having been completed, the West Bengal Housing Development Board has not been executing and registering Deed(s) of Conveyance in respect of such flats. Learned Counsel further submits that the petitioner sent at least twenty reminders for such purpose, but to no effect.

Learned Counsel for the said respondents submits that the State has no role to play in the grievance raised in the present writ petition. It is entirely for the West Bengal Housing Board, it is submitted, to take a call on the issue.

Since repeated opportunities were given to respondents no. 2 to 5 to appear in the matter but the said respondents chose to abstain from the hearing, no other option is left before Court but to dispose of the writ petition in the absence of the absentee respondents.

Being sufficiently satisfied on the basis of the materials annexed to the writ petition that the petitioner has a right to enforce the clauses in the Letter of Allotment and subsequent communications from the end of the Housing Board as well, virtually admitting their liability to execute such documents, this Court is of the view that the writ petitioner is entitled to the relief as claimed herein.

It is further made clear that the relief does not pertain to specific performance of any contract, since liability of the West Bengal Housing Board was admitted by the said Authorities, particularly in the communication dated January 5, 1988, which is annexure P8 at page 28-29 to the writ petition. That apart, the respondent Authorities are dispensing public functions by allotting housing complexes/flats and the same falls squarely within the domain of public law. As such, there is no impediment in granting the relief as prayed for.

Accordingly, WPO 111 of 2021 is allowed, thereby directing the respondent nos. 2 to 4 to immediately execute and register the Deed(s) of

Conveyance in respect of 10 flats, bearing flat no. 1/1 to 1/10, on the first floor, along with parking spaces, at Golf Green Urban Complex, Multistoried Project – Phase I, situated at 18/2/A/4, Uday Shankar Sarani, Kolkata – 700095, as expeditiously as possible, preferably within eight weeks from the date of communication of this order to the said respondents.

It is made clear that the respondents shall act on the communication of the learned Advocates and/or server copy of this order instead of insisting upon prior production of certified copy thereof.

No order as to costs.

Urgent certified website copies of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)