

WPO/1212/2021

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

MERCANTILE BUILDING TENANTS ASSOCIATIONS
-Versus-
THE CESC LTD. AND ORS.

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date : 20th December, 2021.

(Via Video Conference)

Appearance:

Mr. Joydip Kar, Sr. Adv.
Mr. Siddhartha Banerjee, Adv.
Mr. Rajib Mullick, Adv.
Ms. Shreyashi Maity, Adv.
...for the petitioner

Mr. Madhusudan Saha Ray, Adv.
..for CESC

Mr. Pranit Bag, Adv.
Mr. Manish Shukla, Adv.
Ms. Debarati Das, Adv.
..for private respondent

Mr. Debasish Ghosh, Adv.
..for the State

The Court: It is rightly pointed out by learned senior counsel appearing for the petitioner that it was recorded in the order dated December 13, 2021 passed by this Court that the damaged portion of the building had been demolished. However, the issue of damage was actually resolved without any such demolition taking place.

Be that as it may, let the order dated December 13, 2021 be deemed to stand corrected to the extent that the expression "by demolishing the damaged

portion of the building” appearing at the third line of the said order stands deleted. Let this order be treated to be a part of the order dated December 13, 2021 to such extent.

Learned senior counsel appearing for the petitioner submits that it has been clearly stipulated in the report, filed in the form of an affidavit on behalf of respondent nos.3 to 7, that some of the documents, which were to accompany the application for fire safety certificate, were missing in the previous application filed in that regard.

It is apparent from page 10 of the said report that the missing documents are as follows:

- “i) Sanction plan,
- ii) Signature of owner and Structural Engineer,
- iii) Two sets of plan (only one set submitted),
- iv) Dimension of plot, side open space, staircase and room etc.,
- v) Capacity of underground, overhead water reservoir, DG(Diesel Generator) space not shown,
- vi) Floor plan, 1:100 scale”

Out of this, learned senior counsel appearing for the petitioner submits that the petitioner is able to obtain the items mentioned in serial nos.iii to vi. However, the sanctioned plan of the building has already been produced by the owners by way of an annexure to the affidavit filed by the owner in connection with the present writ petition. That apart, the signature of owner as required and indicated in item no.ii, has to be put in by the respondent nos.10 and 11.

Learned counsel appearing for the respondent nos.3 to 7 files the report, referred to above. It is contended by learned counsel for the respondent

nos.10 and 11 that the owners were not responsible for the fire which broke out in the premises. Learned counsel further contends that in the event of the owner putting his signature on the plan, future charges may be levelled against the owner with regard to carelessness and negligence in respect of any accident or fire, if so occurs.

On such apprehension, it is submitted, the owner has refrained from putting his signature on the document.

Upon hearing learned counsel for the parties, it is evident that the application filed by the Mercantile Buildings Tenants Association for fire safety recommendation from the Director General of West Bengal, Fire and Emergency Services got auto rejected on the ground of certain necessary accompanying documents having been omitted.

Out of those, the petitioner is in a position to produce the item nos.iii to vi within a week from date. As far as the sanctioned plan is concerned, the sanctioned plan annexed to the affidavit filed by the owners can be taken note of as compliance of the said requirement.

That apart, the signature of the owner still remains to be put on the document. Since the previous application was rejected on technical ground, there cannot be any bar for the tenants association to file a fresh application.

Accordingly, WPO/1212/2021 is disposed of with the following directions:

The Director General of the West Bengal Fire and Emergency Services shall reconsider on merit a fresh application, if any, made by the tenants' association within December 30, 2021.

The tenants' association shall furnish the items as indicated in item nos.iii to vi above, along with the said fresh application, as well as a Structural Engineer's report, which is the second component of item no.ii. A copy of the sanctioned plan, which has been annexed to the affidavit of the owners, shall also be made available by the owner for the tenants' association to file the same along with the fresh application. Respondent nos.10 and 11 shall further ensure that the signature of the owner is put on the fresh application, upon being so approached by the tenants' association.

Upon such an application being made and subject to the same being approved by the Fire and Emergency Services Authorities in accordance with law, the CESC Limited shall restore the electric connection to the disputed building within a week from the approval of the application for fire safety recommendation, subject to compliance of formalities, if any.

The parties shall co-operate with each other in the above regard and shall act on a server copy of this order, without insisting upon prior production of a certified copy for the compliance of the same.

No order as to costs.

(SABYASACHI BHATTACHARYYA, J.)