

01.07.2022
Sl. No.72
srm

W.P.A. No. 10747 of 2022

Mr. Dhanraj Patni & Ors.

Versus

The State of West Bengal & Ors.

Mr. Debabrot Upadhyay,
Mr. Rahul Karmakar,
Mrs. Munmun Mazumder

...for the Petitioners.

Sk. Md. Galib,
Ms. Sujata Ghosh

...for the State-respondents.

Mr. Debjit Mukherjee,
Ms. Susmita Chatterjee

...for the KMC.

Mr. Arnab Saha,
Mr. Abhimunnay Banerjee

...for the Respondent No.11.

Affidavit-of-service is taken on record.

The prayer of the petitioners is misconceived. The petitioners submit that the landlord is not allowing the petitioners to repair the tenanted premises, which was destroyed due to fire. It is not for the police authorities to authorise such repair. The remedy of the petitioners is before the appropriate local body or before the learned civil court.

The learned Advocate for the police authorities submits that pursuant to the direction of the learned Executive Magistrate, a report has been filed before the

learned Magistrate. The police report indicates that on March 23, 2022 a major fire broke out at the shed of the same premises. As a result, wall, ceiling roof, gate, window, electrical equipments, wiring and other articles were damaged. The premises has become unusable and dilapidated. The Fire Brigade authority and Mobile Forensic Unit also visited the place of occurrence. The incident of fire was registered in the form of a general diary. The Fire Brigade authority did not lodge any complaint before the police authorities.

The report of the forensic unit had been received. The report indicated that the fire could have been caused due to electrical malfunction and successive electrical discharge from the cables. It was found by the forensic unit that the incident was an accident.

The Kolkata Municipal Corporation has furnished a report prepared by the Executive Engineer (Civil), Building Department, Borough-I, indicating that no building permit would be required for repairing work.

Under such circumstances, this Court is of the view that the police authorities do not have any role to play, save and except to ensure that no untoward incident takes place. The right of the respondent No.11 to evict the petitioners in accordance with law, is not decided in the writ petition. The

respondent No.11 is at liberty to approach the appropriate forum for appropriate relief with regard to the eviction of the petitioners. According to the respondent No.11 the petitioners are trespassers. The respondent No.11 is also at liberty to approach the appropriate fire services authorities with other allegations of statutory non-compliance.

The petitioners have already indicated the nature of repair to be undertaken at the premises and addressed a letter to the Municipal Commissioner. On the basis of the same, the Executive Engineer has filed a report, which is retained with the record. It has been stated that no building permit would be required for the repairing work.

The observations made hereinabove, do not amount to declaration of the status of the petitioners in respect of the property in question.

The Kolkata Municipal Corporation must furnish a copy of the report to the petitioner with regard to the disposal of the representation.

The writ petition is, thus, disposed of.

There will be no order as to costs.

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

(Shampa Sarkar, J.)