

S/L 23
07.09.2022
Court. No. 19
GB

W.P.A. 12971 of 2021

Sukumar Chakraborty
VS
The State of West Bengal & Ors.

*Mr. Gazi Faruque,
Ms. Priyanka Mondal.*

...for the Petitioner.

*Mr. Jahar Datta,
Mr. Bipin Ghosh.*

...for the State.

*Mr. Keshab Chandra Das,
Ms. Aparajita Mondal,
Mr. Biplab Adak.*

...for the Respondent No.16.

The affidavit of service filed in Court today be kept with the records.

The petitioner submits that he is the owner of a tenanted premises. There are as many as 10 tenants residing in the premises. According to the petitioner, the building on plot no.2718 corresponding to Khatian No.972, situated at Mouza-Gopinagar, is in a dilapidated condition and may collapse at any stage.

Learned advocate for one of the tenants submits that the building is not in a dilapidated condition and as such, the writ petition should not be entertained. He submits that the building is stable and habitable. The primary object of the petitioner was to evict the tenants.

The learned advocate for the petitioner prays for a direction upon the concerned panchayat authority for causing an inspection, in order to ascertain whether the building is in a dilapidated condition or not. He further

prays that such inspection must be caused by a technical person, for expert opinion.

Unlike the municipal laws, the Panchayat Act does not provide for a situation, when the permission granting authority or the sanctioning authority can direct demolition of a dilapidated building, reconstruction and rehabilitation of the tenants.

Under such circumstances, the prayer of the petitioner cannot be entertained. However, the Panchayat Act provides that addition to any existing structure or building can be made with sanction. Minor repairs do not require permission, whereas major repairs, which amount to changing the structure or addition to an existing structure require permission.

Under such circumstances, this writ petition is disposed of with liberty to the petitioner to approach the competent permission granting authority and also the vetting authority, (as the case may be) within whose jurisdiction the property is situated for permission to make such extensive repairs, as per law. If the authorities on inspection, arrive at a conclusion that such major repairs and re-construction would be necessary for the structural stability of the building and for the protection of the tenants who are residing therein, such permission shall be granted strictly in accordance with law and on the terms and conditions, which the permission granting authority and the vetting authority deem fit and proper.

While disposing of the application of the petitioner, the following procedure shall be adhered to by the relevant and competent authorities/authority:

a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and all the tenants within three weeks.

b) The inspection report shall be handed over to all the parties.

c) A hearing shall be given to the petitioner and all the tenants. The parties must also be allowed to furnish their written objection/version to the said report and adduce oral and documentary evidence in support of their contentions, before the competent authority. All points raised by either party, shall be decided.

d) Necessary directions shall be passed with regard to the nature and extent of repair, if permitted. The tenants shall not be disturbed from their possession. If repairs are required the tenants shall cooperate with the work and adjust.

The entire exercise shall be completed within a period of four months from the date of communication of this order.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the learned advocates' communication.

(Shampa Sarkar, J.)