

10.02.2022
Ct. 21
D/L 6
ab

C.O. 2012 of 2021
(Via Video Conference)

Sri Ajay Kharwar
-Vs-
Smt. Swapna Mondal

Mr. Ramashis Mukherjee,
Mr. Rameshwar Sinha,

... for the petitioner

Mr. Sanjoy Saha,

... for the opposite party

The parties are represented by their respective lawyers. The matter is taken up for hearing.

The present application is at the instance of tenant in respect of room no. 14 measuring about 250 square feet situated in premises no. 30/1, B.K. Paul Temple Road, Post Office- Belurmah, Police Station- Belur, District- Howrah against the fixation of fair rent at the rate of rupees 2460/- per month by the Rent Controller at Howrah, under Section 17 of the West Bengal Premises Tenancy Act, 1997.

It has been contended by the petitioner/tenant that inquiry was conducted by the assessor of the Rent Controller in his absence and as per the instruction of the opposite party/land lord. That petitioner is in occupation of a room measuring about 120 square feet and not 250 square feet as alleged by the landlord. That Rent Controller, Howrah without giving an opportunity to the petitioner to file written objection has accepted the report of the assessor and fixed the fair rent of the disputed tenancy at Rs. 2460/- per month from

contractual rent of Rs.360/- per month. Therefore, he prays for setting aside the order dated 12.03.2021 passed by the Learned Rent Controller, Howrah.

Perused the record from where it appears that landlord has made a prayer under section 17 of the West Bengal Premises Tenancy Act, 1997 before the Rent Controller, Howrah for fixing fair rent of the disputed tenancy and has also served a notice of eviction on the tenant/petitioner.

The learned Rent Controller, Howrah directed the assessor to cause an inquiry and submit report. Such order appears to have been passed by the Learned Rent Controller in presence of both sides on 08.08.2019.

Report of the assessor shows that he had done the inquiry of the disputed tenancy in presence of both the landlord and tenant. He has reported the tenancy is situated behind the Hooghly River and near Belur Math and made of brick built wall with RT shed roof with veranda and common privy being used by tenant. That he could not collect the construction cost of the disputed tenancy and thereby assessed the fair rent of the disputed tenancy at Rs. 2460 /- per month.

However, this court finds the report totally silent about the age of the building and which need to be taken into consideration while assessing the fair rent. How and what basis the assessor has fixed the fair rent of the disputed tenancy at Rs. 2460/- per month. The report, prima facie, shows the assessor has failed to comply the conditions to be followed for assessment of fair rent as provided in Section 17 of the West Bengal Premises Tenancy Act, 1997. Acceptance of such vague report prepared by assessor without any basis by the learned Rent Controller, Howrah, appears not proper.

Therefore the revisional application is allowed and the impugned order is set aside.

Accordingly **C.O. 2012 of 2021 is disposed of.**

Interim order, if any, stands discharged.

In view of the order made above Affidavits are not invited. Allegations made shall be deemed to be denied.

There will be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

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

(**Kesang Doma Bhutia, J.**)