

07.03.2022
Court No. 19
Item no.17
CP

WPA No. 21465 of 2019

Samir Ranjan Khatua
Vs.
The State of West Bengal & ors.

Mr. Bhaskar Chandra Manna

.....for the petitioner.

Mr. Amit Baran Dash

....for the respondent no. 7.

Mr. Ziaul Islam

....for the State.

None appears on behalf of the Egra Municipality.

The petitioner is the owner of a building situated at Plot Nos. 2820, 2825 and 2826 in Mouza – Kasba Egra, under the jurisdiction of Egra Municipality (hereinafter referred to as ‘the municipality’). The petitioner relies on a notice issued by the municipality in respect of the premises situated on the said plots declaring the mud house with the shed standing on the said holding nos. 148, 149 and 150 to be condemned and further declaring that if the house collapsed, thereby causing injury to any person, the municipality would not be held responsible.

Mr. Manna, learned advocate appearing on behalf of the petitioner, submits that the occupants

were no longer tenants and they had overstayed their period of lease/tenancy. He submits that as the tenants were not vacating the premises in question, the petitioner was unable to demolish the said structure.

The petitioner fears that the municipality will hold the petitioner responsible for any accident that may occur in view of the dilapidated condition of the mud house. Representation has been made before the municipality.

It also appears that the Sub-Assistant Engineer of the municipality visited the house standing on the said holdings and found that the house would cause harm not only to the inmates but also to the passersby. He recommended that the house be demolished and a new house be constructed, in accordance with law.

Mr. Dash, learned advocate appearing on behalf of the respondent no. 7, one of the tenants, submits that the portion occupied by Mr. Dash's client was not dilapidated.

This court does not want to deliberate on the disputed questions of fact raised in this writ petition. Whether the tenants are staying in their respective premises legally or were trespassers, are not matters to be decided in this proceeding. The tenants cannot prevent the landlord from demolishing the premises

and constructing thereon in case the building was found to be dangerous. The rights of the inmates to be reinstated does not get obliterated, in case the municipality grants the petitioner permission to construct a new building on the premises in question.

As the matter is an old one, this court is of the opinion that a fresh inspection must be carried out by the municipality in presence of all the parties. A report shall be prepared and served upon all. Parties shall be allowed an opportunity to respond to the said report. The representation of the petitioner dated October 1, 2019 marked as Annexure –P-8 to the writ petition, shall be disposed of thereafter.

The Chairman of the municipality shall dispose of the representation of the petitioner in accordance with law upon hearing the petitioner, the respondent no. 7 and all other occupants of the mud house. A reasoned order shall be passed and communicated to all interested parties.

A copy of the writ petition containing the aforementioned representation shall be served along with the server copy of this order upon the Chairman of the municipality. The municipality shall take steps in accordance with the provisions of Section 223 of the West Bengal Municipal Act, 1993.

The court has not gone into the merit of the claims and counter-claims of the parties and the issues shall be decided independently by the municipality.

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

The writ petition is, thus, disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)