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ORDER SHEET
WPO/16/2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

JUGAL KISHORE SADANI AND ORS.
VS
STATE OF WEST BENGAL AND ORS.

BEFORE:
The Hon'ble JUSTICE RAJASEKHAR MANTHA
Date : 7TH JANUARY, 2022

APPEARANCE:
Mr. Dhiraj Tirvedi, Adv.
...for the Petitioners

Mr. Chayan Gupta, Adv.
Ms. Sweta Gandhi Murgai, Adv.
...for the respondent No. 7

Ms. Ipsita Banerjee, Adv.

Mr. Rajesh Upadhyay, Adv.

The Court : The writ petition is directed against the alleged inaction of the Shakespeare Sarani police station. It is submitted that a complaint has been lodged by the petitioner against the private respondents for interruption of water supply. The complaint has been registered as FIR being PS Case No. 217 of 2021 dated 16th December, 2021 under Sections 341, 430 and 434 of the IPC.

The brief facts of the case are that the writ petitioner along with few others of a family are members of a building association called "Saket Flat Owners Association". The said association caters to common services in a housing residential building complex at No. 2, Hochimin Sarani, Kolkata 700071. The

petitioner submits that while there may or may not be disputes amongst the owners association and the other owners of the building society against the petitioner, water supply cannot be interrupted since the same amounts to denial any rights under Article 21 of the Constitution. It is submitted by registering FIR on the petitioner's complaint, the state has accepted that there is denial of Article 21 to the petitioner and offences have been prima facie found against the private respondents.

It is, therefore, submitted that the police were obliged to ensure that interruption of water supply by the respondents to the petitioner should not continue. Consequently, a direction is sought upon the police to ensure that water supply is restored to the petitioner.

The flat owners association is represented as are some individual flat owners. It is submitted that disruption of water supply is not specific to the petitioner. It is submitted that in respect of Block No. A in the building complex, the entire water supply system has collapsed for being damaged by wear and tear and passage of time. A number of other residents have also been deprived of water supply like the petitioners. Hence, there is no denial of any rights under Article 21 of the Constitution of India.

There are other issues raised by the private respondents against the petitioners and, vice versa. They relate to recovery of maintenance charges and payment of the same. This cannot be the subject matter of this writ petition and may be thrashed out by the parties in an appropriate civil forum.

Denial of rights Article 21 is normally agitated under Article 226 of the Constitution against the State or an instrumentality of the State. Admittedly,

none of the State authorities who are party to the writ petition, are alleged to have deprived of any rights of the petitioner under Article 21. Insofar as the alleged deprivation of water to the petitioner, this Court notes of the submissions of the majority of the private respondents and the Flat Owners Association that the water supply lines have been damaged by wear and tear. Many flat residential units in building Block No. A do not have water supply because of the damage. For interruption of water supply by reason of damage of pipes for wear and tear, the writ petitioner cannot blame any person, public or private.

The water supply in the building complex is from a submersible tube-well owned and maintained by the residents. The municipal authorities have no role to play in the matter. The maintenance of water supply is under a private agreement between the petitioners and the private respondents. There is, therefore, absolutely no public law element involved in the claims made by the respondents against the private respondents either. No relief can be granted to the petitioners in these proceedings under Article 226 of the Constitution of India.

However, the investigating officer of the Shakespeare Sarani police station shall enquire and complete investigation into FIR No. 217 of 2021 dated 16th December, 2021 as expeditiously as possible preferably within a period of one month from date.

The writ petition is disposed of with the aforesaid observation.

(RAJASEKHAR MANTHA, J.)