

ORDER SHEET
W.P.O. No. 1612 of 2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

Mercantile Buildings Tenants Association & Anr.
Versus
Government of West Bengal & Ors.

BEFORE:
The Hon'ble JUSTICE RAJASEKHAR MANTHA
Date : 25th March, 2022.

Mr. Joydip Kar, Sr. Adv. with
Mr. Siddharta Banerjee,
Mr. Rajib Mullick &
Ms. Shreyashi Maity, Advs.
... for the petitioners.

Mr. Debjit Mukherjee with
Ms. Susmita Chatterjee, Advs.
... for KMC.

Mr. Amitesh Banerjee, Sr. Adv.
with Mr. Debasish Ghosh, Adv.
... for the State respondents.

Mr. Pawan Kr. Gupta with
Mr. Manish Shukla &
Ms. Debarati Das, Advs.
... for the respondent nos.10 & 11.

The writ petitioners are aggrieved by an order uploaded on the website of the West Bengal Fire Safety Authority, dated 15th February, 2022. By reason of the said order, the fire safety clearance of the building occupied by the members of the petitioners has been denied.

Mr. Kar, learned senior Counsel for the petitioners, submits that the building plan has been sanctioned by the Kolkata Municipal Corporation

(KMC) in the year 1915. There is no way of making any structural changes. The requirements of provision of sufficient driveway around the building, and open spaces are impossible to comply with in the year 2022. The petitioners are in no position to improve the structural health of the building either.

Indeed there is some merit in the submissions made by the learned Senior Counsel for the petitioners. The surrounding areas of the building have undergone a sea change since the year 2015 with the growth of population and an increased number of commercial and other activities in the area. There can be no two opinions that it is one of the most congested commercial areas in the city of Kolkata.

Mr. Kar also submitted that the building has never been declared a High Risk Structure. It is therefore submitted, that the impugned requirements, absence whereof have led to rejection, cannot be applied to the writ petitioners in the first place.

Be that as it may, considering all the above factors, the writ petitioners are directed to make a comprehensive representation to the respondent no.3, within seven days from date. The writ petitioners and/or their legal representatives shall be given a personal hearing. The respondent no.3 shall dispose of the said representations by a reasoned order.

A balance needs to be drawn, by the Respondent No.3 between the requirements of putting in place fire safety measures, with the ground realities of the building and the surrounding areas as on date. The Act already provides for liability for Fire Safety Compliance both on the owner as well as on the occupiers.

The condition of the civil structure of the building, may also be assessed by the respondent no.3. If in such process it is felt necessary that new opinion may be sought from the KMC. The concerned department of KMC shall furnish necessary report to the respondent no.3.

All documents obtained by the respondent no.3, inter alia, as indicated hereinabove, shall be made available to the petitioners in advance before hearing. The signature of the owners in the peculiar facts and circumstances of this case shall stand dispensed with.

The entire exercise shall be completed within a period of two months from date.

With the aforesaid observations, writ petition is disposed of.

(RAJASEKHAR MANTHA, J.)