

ORDER SHEET
WPO/2277/2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

ASHUTOSH JANA AND ORS
VS
LIFE INSURANCE CORPORATION OF INDIA AND ORS

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date : 05TH JULY, 2022.

Appearance:
Mr. K. Das Poddar, Adv.
For the petitioner

Ms. T. Dasgupta, Adv.
For LIC

The Court : Learned counsel appearing for the petitioners contends that the petitioners are tenants in respect of the premises at 9, Jawaharlal Nehru Road, Kolkata. It is submitted that, under the ambit of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, the tenant has a right vis-à-vis the landlord, to be asserted for the purpose of ensuring that the landlord takes adequate measures for renovation/repair of the building.

Although a notice has been issued under Section 412A of the KMC Act, 1980, the owner of the premises, that is, LIC has not yet been taken any steps with regard to the issue, thereby jeopardizing the rights of the petitioners and other tenants.

Learned counsel appearing for the LIC submits that the writ petition is premature. Since an enquiry/inspection has already been directed by a co-ordinate bench in respect of the said building to ascertain the condition

thereof, unless such report comes, the cause of action pleaded in the writ petitioners does not lie.

Be that as it may, since the petitioners are apparently aggrieved with the alleged inaction of the petitioners' landlord in respect of the premises in question, the petitioners have to approach the competent authority under the Rent Control Act for the purpose of getting such remedy, if available in law.

Inasmuch as the notice under Section 412A of the KMC Act, 1980 is concerned, the petitioners are, in any event, entitled to challenge the same, if aggrieved.

That apart, it is always open to the petitioners to take adequate steps in respect of the renovation/repairs of the premises and to seek adjustment of the costs, if so entitled, from the landlord.

Hence, there is substance in the contention of the respondent LICl that the present challenge is premature. That apart, there is no scope of issuance of any writ of mandamus within the purview of Article 226 of the Constitution of India in the factual circumstances as pleaded in the writ petition.

Hence, WPO No.2277 of 2022 is disposed of. It is made clear that the petitioners shall be at liberty to pursue all other remedies, and if available to the petitioners in law, for redressal of the grievance ventilated against the petitioners' alleged landlord, namely, the LICl.

No order as to costs.

Urgent certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)

A.Dey