

20.12.2023
rc/ct.no.10
Item No.18

WPA No. 10424 of 2023
Balaram Halder
Versus
The State of West Bengal & Ors.

Mr. Durga Prasad Dutta
Mr. Souvik Sen ...for the petitioner

Mr. Chandi Charan De
Mr. Anirban Sarkar ...for the State

The petitioner assails the order passed by the Special Land Acquisition Officer, Purulia on March 16, 2023.

Learned counsel for the petitioner submits that the Government order issued by the Land and Land Reforms Department, Requisition Branch on April 29, 2013 has not been considered in turning down the prayer of the petitioner for revision of rent in respect of the premises in question. The premises was let out to the respondents on September 25, 1984, i.e. before more than 30 years and the Government Order dated April 29, 2013 is applicable to assessment of rent with regard to the said premises. Clause 8 of the Government Order indicates that in case of assessing the rent for the premises hired 30 years back the Government Order dated November 23, 1994 ought to be followed and in such cases the rent is assessed as a fresh one. Learned counsel also refers to Clause 1(a) of the

relevant Government Order which is reproduced hereunder:-

“1(a) for assessment of rent of a premises the market rate of rent prevalent in the area should be ascertained by the Land Acquisition Authority issuing rent reasonableness certificate. Such enquiries may be made taking into account the rent being paid for premises taken on hire/lease by the Central Government, State Government or Government Undertakings for similar accommodation in the locality. L.A.Collector should ascertain figures of prevalent market rent and collect authentic data, preferably based on documents, taking into account conditionalities of lease deed/tenancy agreement of premises taken for consideration and should also keep in view the relative area/size of premises and relative advantages and disadvantages. The premises should be comparable in specification, provision of amenities and nature of construction. They should also make sure that the factors for which the landlord is responsible like Municipal Taxes, maintenance and repairs etc. are also comparable.”

It is evident from the order impugned that there was no fresh assessment of rent in terms of the Government Order dated April 29, 2013 and only a revision of rent was made upon enhancing the same by 20% of the previously assessed rent.

In view of the procedure for assessment rent laid down in the said Government Order, this Court is inclined to hold that the order impugned has not been passed in conformity with the said Government Order and therefore, is required to be set aside.

The writ petition is accordingly allowed.

The order impugned dated March 16, 2023 is set aside.

The concerned authority being 6th respondent herein, is directed to reassess the rent payable to the petitioner in terms of the Government Order dated April 29, 2013 specially clauses 1(a) and 8 of the said order within two months from the date of communication of this order upon affording reasonable opportunity of hearing to all concerned including the petitioner, in accordance with law.

The decision taken by the authority shall be communicated to the petitioner within a week thereof.

There shall be, however, no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh,J)