

Item No.4 & 5

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

18.01.2023
Ct-24

WPA 10385 of 2022
Baidyanath Banerjee

v.

The State of West Bengal & Ors.
with

WPA 16784 of 2017
Sangat Lal Burnwal

v.

The State of West Bengal & Ors.

Mr. Partha Pratim Roy

Mr. Debayan Roy

... for the petitioner in

WPA 10385 of 2022 &

for the private respondent

respondent in WPA 16784 of 2017.

Mr. Sujoy Chakraborty

Ms. Shashwati Bhattacharjee

... for the petitioner in

WPA 16784 of 2017 and for the

Respondent no. 10 in WPA 10385 of
2022.

Mr. Saunak Bhattacharya

Mr. Chandra Nath Sarkar

Mr. Abhirup Halder

... for the Asansol Municipal Corporation.

An affidavit has been filed by Baidyanath Banerjee, the owner of the premises at Holding No. 50/272, Gour Mondal Road, Ward No. 8 (old), 47 (new) under the Asansol Municipal Corporation.

The said Baidyanath Banerjee has declared in the affidavit that he intends to demolish the existing structure standing at the aforesaid premises and construct a new G+3 storied building at the said place

after obtaining sanction from the Asansol Municipal Corporation.

Sangat Lal Burnwal is a tenant of Baidyanath Banerjee at the aforesaid premises and he runs a grocery shop in his tenanted portion under the name and style of "Lalji Variety Store".

The landlord/owner in the affidavit has undertaken to provide constructed area of 10 feet X 10 Feet to the tenant. After mutual discussions by the learned advocates of the parties, submission has been made in Court that constructed area of 12 feet X 12 feet shall be delineated in the building plan to be submitted before the Asansol Municipal Corporation seeking sanction.

The landlord has mentioned in the affidavit that construction of the building will be completed within four years and possession will be given to Sangat Lal Burnwal.

Be it recorded that possession shall be given by Baidyanath Banerjee to Sangat Lal Burnwal of the 12 feet X 12 feet construction in the existing position, ground floor of the building to be constructed as soon as the same is ready for possession. The landlord is not required to wait for completion of the entire building to hand over possession to Sangat Lal Burnwal.

The possession may be handed over to Sangat Lal Burnwal after his portion is constructed. Permission of the Asansol Municipal Corporation shall, however, be obtained prior to handing over possession to Sangat Lal Burnwal.

Sangat Lal Burnwal shall hand over vacant peaceful possession of the place that he is presently occupying to the landlord Baidyanath Banerjee within a week from service of notice by the landlord to the tenant on receipt of the sanction obtained from the Asansol Municipal Corporation. A copy of the sanctioned plan showing the place to be allotted to Sangat Lal Burnwal shall also be forwarded along with the notice to vacate his tenanted premises.

Both the writ petitions stand disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

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(Amrita Sinha, J.)