

Ct. 05
Item No.24
07.02.2023
(Suvendu)

WPA 16665 of 2019

**Kabita Sarkar & Anr.
Vs.
Union of India & Ors.**

Mr. Tapan Sarkar
.....for the petitioner no.2 –in person

Mr. P.K. Ray
Mr. J. Ray
Mr. A.Chakraborty
.....for the respondent no. 2

Mr. Manas Dasgupta
.....for the respondent nos. 4 & 5

The petitioner no. 2 appears in person and the petitioners seek a direction on the respondents, more particularly the respondent no. 2, being the National Building Construction Corporation Ltd. (NBCC), for allotting a parking area for the exclusive use of the petitioners but without requiring any payment for the parking space. The petitioners are residents of a housing complex at Rajarhat, Kolkata.

The petitioners say that the petitioners are not required to pay any money for parking their car in the open space of the complex. The case sought to be made out by the petitioners suffers from several factual infirmities. First, the offer

Document of NBCC clearly specifies that car parking facilities shall be provided in the complex subject to payment of certain amounts which are to be payable by the residents on allotment. Second, a document of 5th July, 2006 issued by the NBCC to the first petitioner gives a schedule of payment in respect of allotment of apartments including for parking space, if applied for. Clause 4.0 of the letter makes it clear that parking space shall be separately allotted and the schedule for payment of the parking space shall be sent separately. Third, the petitioners agreed to pay charges for the parking space allotted to the petitioners by a letter dated 15th December, 2009 wherein it was also stated that the decision regarding allotment of parking space will be final and binding on the petitioners. Fourth, the Parking Slot Allocation Notice of the NBCC for the building complex includes the name of the first petitioner as a party who failed to deposit the amounts for the parking space and did not show any interest therein.

The petitioners have not made out any case of discrimination as admittedly all other residents have been allotted parking spaces in the common area against payments. The petitioners' construction of the West Bengal Apartment

Ownership Act, 1972 as permitting parking without corresponding payment is not tenable.

Upon finding the absence of any factual or legal case made out by the petitioners, WPA 16665 of 2019 is dismissed without any order as to costs.

It is made clear that the respondent no. 2 shall be at liberty to allot parking space/spaces to the petitioners upon the petitioners making appropriate payment for such parking space.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Moushumi Bhattacharya, J.)