

OD-5

ORDER SHEET

WPO No.632 of 2023
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SMT. UTTARA BARDHAN & ORS.
VS.
STATE OF WEST BENGAL & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date:23rd March, 2023.

Appearance:
Mr. Saumyajit Ghosal, Adv.
Ms. Tanusree Swarnakar, Adv.
... for the Petitioners.

Mr. Debjit Mukherjee, Adv.
Ms. Dipanwita Ganguly, Adv.
... for K.M.C.

Mrs. Sipra Majumder, Adv.
Mrs. Debarati Sen (Bose), Adv.
...for the State.

Mr. Mayank Kakrania, Adv.
..for Respondent No.22.

The Court:-Petitioners claim to be tenants in respect of premises no.9, Kalachand Sanyal Lane, P.S.-Shyampukur, P.O.-Shyambazar, Ward No.11, Kolkata-700004 under the jurisdiction of the Kolkata Municipal Corporation. Petitioners' allegation is that the owners of the said premises obtained sanctioned plan from the Kolkata Municipal Corporation by misrepresentation and fraud. It was not declared before the Kolkata Municipal Corporation that the petitioners were tenants of the said property and no place has been earmarked in the sanctioned plan for tenancy of the tenants.

It appears from the averments made in the said writ petition that the petitioners filed a suit for declaration and injunction before the learned City Civil

Court at Calcutta being Title Suit No.1880 of 2022. The learned Court below has been pleased to pass interim relief in the form of status quo, so far as the nature, character and possession of the suit property as described in the schedule of plaint is concerned.

Petitioners complain that despite the order of status quo, landlords with the help of the developer, have demolished the tenanted portions.

Learned advocate representing the Kolkata Municipal Corporation submits, upon instruction that, the Kolkata Municipal Corporation shall abide by the direction passed by the learned Court below in the civil suit that is pending in between the landlords and the tenants.

Learned advocate representing the developer being the respondent no.22 herein is yet to receive any instruction in the matter.

From the submissions made on behalf of the parties and upon perusal of the materials on record it appears that the petitioners have already moved the learned Court below and have been able to obtain an order of injunction restraining the defendants therein from changing the nature and character of the suit property.

At this stage, it will not be proper for the Kolkata Municipal Corporation to enter into and decide any private rights in between the parties.

Accordingly, it will be open for the petitioners to draw the attention of the learned Court below about the subsequent facts and pray for necessary relief therein.

The writ petition stands disposed of.

Affidavit of service filed in Court today is taken on record.

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

(AMRITA SINHA, J.)

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