

24-06-2024
Item No.24
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.4596 of 2024
Jagbali Ray & Ors.

-vs-

The State of West Bengal & Ors.

Mr. Malay Dhar
Ms. Munmum Mishra ...for the petitioners

Mr. Debjit Mukherjee
Mr. S. Chatterjee ...for the State

Mr. Bidhayak Lahiri
Md. Kalam
Ms. Bhaswati Lahiri ...for respondents no.6-14

The petitioners claimed to be the tenants of premises no.B/5/H/20, Bhukailash Road, Ekbalpore police station, Kolkata-700 023.

They allege that the private respondents are restraining them from constructing tile shed which got damaged because of natural wear and tear.

Reliance has been placed on an order dated January 25, 2024 passed by the learned Executive Magistrate, 1st Court, Alipore, South 24 Parganas in Misc. Case No.223 of 2024 (Jagbali Ray & Ors. v. Md. Jamil & Ors.) wherein the court directed the police to “submit enquiry report and make close vigil upon the OP and his mean to make any hindrance for doing repairing job as well and to maintain peace”.

Prayer has been made to permit the petitioners to make repairing work.

Learned advocate representing the private respondents denies the allegation of the petitioners. Reliance has been placed on an order dated July 18, 2023 passed by the Deputy Controller, Kolkata Thika Tenancy in Misc. Case No.59 of 2018 R/F-78/36 & 78/11 in a proceeding under section 5(3) of the West Bengal Thika Tenancy (Acquisition and Regulation) Act, 2001.

The status of the petitioners as tenants in the subject premises has been disputed by the private respondents. The status of the landlord of the petitioners has also been disputed.

A report has been filed by the Officer-in-Charge of Ekbalpore police station signed on March 7, 2024 which mentions that complaint and counter-complaint filed by the parties were duly investigated and charge-sheets have been filed.

It appears from the submission of learned advocates for the respective parties and on perusal of the materials on record that, admittedly, the property in question is a thika property. An issue has been raised with regard to the status of the petitioners as tenants and the right of the alleged landlord to give the property on rent to the petitioners.

In my view, this matter cannot be adjudicated under Article 226 of the Constitution. It will be open for the parties to raise their grievance before the appropriate forum. The police, however are directed to ensure that there is no breach of peace in the locale.

The writ petition stands disposed of.

Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]