

August 6, 2024
Sl. No.A 21
Court No.9
s.biswas

WPA 9111 of 2024

Ashutosh Roy
vs.
The State of West Bengal and others

Mr. Bibek Jyoti Basu
Mr. Sandeep Prasad Shaw
Mr. Aman Kumar Singh

... for the petitioner

Ms. Ashmita Chakraborty

... for the State

Mr. Pratik Dhar, Sr. Adv.
Mr. J. R. Mukherjee
Ms. Srijani Mukherjee

... for the respondent nos.2 to 6

1. The issue in this writ petition relates to an election which was held, for the formation of an association, in respect of Sankalpa-III Housing Complex at New Town. The matter is pending before the competent authority under the West Bengal Apartment Ownership Act, 1972, as per the submission by the learned advocate for the state respondents.
2. As the matter is already pending before the competent authority authorized by law to determine disputes amongst apartment owners and the association etc., this court is not inclined to interfere at this stage.
3. The writ petition is accordingly disposed of with the direction upon the competent authority to treat the writ petition as a representation of the petitioner, who also filed a complaint before the competent authority through a power of attorney

and dispose of the matter in accordance with law within two months from date.

4. It appears that the power of attorney holder of Ashutosh Roy had already approached the competent authority with the allegations that despite an order that the bye laws of the apartment were non est, some of the members were misusing the powers, on the basis of such bye laws. All the issues which are part of the record and which have been agitated in the writ petition, shall be decided by the competent authority, upon hearing all the parties.
5. The petitioner will be at liberty to make an interim prayer before the competent authority for a direction as to how the association should run. It is the specific case of the petitioner that the competent authority had held earlier that the bye-laws of the society was non-est. All parties, including the representatives of the alleged office bearers, who are allegedly running the association, shall be heard by the competent authority.
6. Accordingly, the writ petition is disposed.
7. All the parties shall act on the basis of the server copy of the order.

(Shampa Sarkar, J.)