

06-03-2024
Item No.18
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.20311 of 2023
Subhas Tjakkar & Ors.

-vs-

The State of West Bengal & Ors.

Mr. Manoranjan Jana
Ms. Mitali Jana ...for the petitioners

Mr. Achintya Kumar Banerjee
Ms. Indumouli Banerjee ...for the municipality

The petitioners pray for a direction upon the Bishnupur Municipality to dismantle the old dilapidated structure under section 223 of the West Bengal Municipal Act, 1993.

The permission accorded by the Chairman of the municipality on July 7, 2022 addressed to the petitioners mentions that an inquiry was made and being satisfied with the condition of the building, the municipality accorded permission to dismantle the old dilapidated structure immediately as provided under section 223 of the Act.

The petitioners are unable to dismantle the old structure, because a portion of the same is occupied by some followers of the ruling political dispensation.

It is submitted that the petitioners being the owners of the subject property are forced to reside in a tenanted accommodation. Even though the petitioners intend to raise the new construction, they are restrained from doing so as dismantling could not be made.

The petitioners rely upon a money receipt issued by the municipality in 2007 on account of demolition charges of other portion of the building. The petitioners submit that the municipality may be directed to assess the charges for demolishing the old dilapidated structure so that they may deposit the same.

The court is of the opinion that any private dispute between the owners and the tenants/trespassers/forceful occupiers cannot be directed to be resolved by the municipality. The petitioners ought to have approached the competent court for evicting the unauthorised occupants/tenants/trespassers.

In the event the petitioners are able to vacate the subject premises, then they may approach the municipality for assessment of charges for effecting the demolition.

The writ petition is disposed of.

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

[Amrita Sinha, J]

