

16
30.01.2024
mb

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 22218 of 2023

Shanti Devi & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Nikhil Kumar Gupta
... for the petitioners

1. The grievance of the petitioners is that the banyan tree of the private respondent outgrew itself and extended over the property of the petitioners, thereby jeopardizing the life and limb of the petitioners.
2. Despite repeated representations to all authorities and requests to the private respondent to trim the branches of the said tree, no steps were taken, for which the petitioners had to run from pillar to post but to no avail.
3. Ultimately, the banyan tree fell on the petitioners' house, causing extensive damage, which is evident from the photographs annexed, particularly at page 31 of the writ petition.
4. Subsequently the Disastrous Management Authorities handed over compensation of Rs.70,000/- to the petitioners.

5. It transpires upon hearing the petitioners' counsel that the amount of Rs.70,000/- may be meagre keeping in view the expenses which have been incurred by the petitioners for rebuilding their house after the disaster, which was in a sense man-made, due to apparent callousness on the part of the authorities and the private respondent.

6. Be that as it may, since the writ court, with its constraints regarding taking of evidence, is not the appropriate authority for deciding the quantum of compensation payable to the petitioners over and above the compensation of Rs.70,000/- received by the petitioners, it would only be appropriate to give liberty to the petitioners to approach the competent civil court for such purpose.

7. Accordingly, W.P.A. No. 22218 of 2023 is disposed of by granting the petitioners liberty to approach the competent civil court having jurisdiction for the relief of compensation and damages (over and above the amount already received from the Disaster Management authorities) against the all respondents, including the private respondent, commensurate with the damages suffered by the petitioners, including the costs of rebuilding the petitioners' house.

8. If such an approach is made by the petitioners within a month from date, the period of pendency of

the writ petition shall be excluded from the limitation period for filing the suit.

9. The competent civil court shall decide the same in accordance with law upon giving opportunity of hearing to all concerned without being influenced, however, in any manner whatsoever by any of the observations made herein on the merits of the issues involved.

10. There will be no order as to costs.

11. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)