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06.05.2024
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 25291 of 2023

Kaniska Dutta & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Niladri Sekhar Chosh,
Ms. Sompurna Chatterjee,
Mr. Sourav Mondal,
Ms. Labani Sikder
...for the petitioners

Ms. Jhuma Chakraborty,
Mr. Parikshit Goswami
...for the State

1. Affidavit-of-service filed in Court today be kept on record.
2. The grievance of the petitioners is that being aggrieved by the decision of the respondent no. 3- Association, the petitioners preferred a complaint before the Competent Authority.
3. Till date, the Competent Authority has not replied to the same.
4. Learned counsel appearing for the State/Competent Authority submits that the matter pertains to private disputes between the petitioners and the Association and, as such, the writ petition is not maintainable.
5. It transpires that certain allegations have been made by the writ petitioners to the Competent

Authority on certain alleged irregularities in the functioning of the Association.

6. A perusal of the complaint dated August 01, 2023 which is annexed at page 25 of the writ petition, however, shows that the questions raised therein do not come within the purview of Section 16B of the West Bengal Apartment Ownership Act, 1972.

7. In the event the petitioners are aggrieved with the Association, it is always open to the petitioners to approach the competent civil court with their respective disputes. However, there is no scope for interference in the present writ petition on the grounds as indicated above.

8. Accordingly, W.P.A. No. 25291 of 2023 is disposed of by granting liberty to the petitioners to approach the competent civil court with their grievances against the Association, if any, upon which the civil court shall decide the issues involved without being influenced in any manner on merits by any of the observations made herein.

9. There will be no order as to costs.

10. 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.)