

ORDER SHEET

WPO/111/2024
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

RUTH AND CO PRIVATE LIMITED AND ANR
VS
STATE OF WEST BENGAL AND ORS

BEFORE:

The Hon'ble JUSTICE SUVRA GHOSH

Date: 29th February, 2024.

Mr. Prabal Mukherjee, Sr.Adv.
Mr. Kaushik Dey, Adv.
Mr. Soumajit Mishra, Adv.
...for the petitioner

Mr. Santanu Kumar Mitra, Adv.
Mr. Subhabrata Das, Adv.
...for the State

The Court: Heard learned counsels for the parties.

On the prayer of the petitioners, liberty is granted to implead First Land Acquisition Collector, Kolkata as respondent no. 4 in the writ petition. The cause title of the writ petition be amended accordingly.

The petitioners are the tenants in respect of the premises in question.

A co-ordinate Bench of this Court by an order passed on December 19, 2000 fixed the rent of the premises at Rs. 10,000/- per month. The said order was carried in appeal by the petitioners and by an order dated 9th April, 2001 in MAT No. 132 of 2001, an Hon'ble Division Bench of this Court modified the order passed by the Single Bench and directed, as an interim measure, the Rent Controller under the West Bengal Premises Tenancy Act, 1956, to decide the fair rent of the premises after hearing both the parties within a stipulated time frame. The Court recorded that it was an interim arrangement subject to objection which was raised by the learned counsel

for the West Bengal Khadi & Village Industries Board. The Rent Controller was directed to decide the fair/reasonable rent in accordance with law taking into consideration the occupancy of the tenants in the premises. The respondents preferred a Special Leave Petition against the said order before the Hon'ble Supreme Court which was dismissed by an order passed on 21st January, 2002 in SLP (Civil) No. 10442 of 2001.

It is contended on behalf of the petitioners that the offer of rent made by the petitioners was accepted by the Authority vide letter issued on 17th September, 2010. The bill was slapped upon the petitioners on 4th December, 2023 assessing the rent from 1st January, 2023 to November, 2023 to the tune of Rs. 4,51,484.94 which is impugned in the present application.

Learned counsel for the petitioners submits that since the Hon'ble Division Bench directed the Rent Controller to assess fair rent in respect of the premises in question, the tenancy is governed by the West Bengal Premises Tenancy Act, 1956 and the impugned assessment could not have been made by the First Land Acquisition Collector, Kolkata. Also, no opportunity of hearing was granted to the petitioners prior to such assessment.

Learned counsel for the respondents points out that the Hon'ble Division bench directed the Rent Controller to assess fair rent only as an interim measure and in terms of Section 3(a)(iv) of the Premises Tenancy Act, 1997, the premises in question is not governed by this Act.

By the order passed on 9th April, 2001, the Hon'ble Division Bench directed the Rent Controller to assess fair rent of the premises only as an interim measure and the provision referred to earlier clearly depicts that the

premises in question is not governed under the West Bengal Premises Tenancy Act. It is not in dispute that no opportunity of hearing was granted to the petitioners before fixation of rent by the First Land Acquisition Collector. On the said score alone, the bill raised by the Land Acquisition Collector on 4th December, 2023 is required to be set aside as also the demand issued on 29th January, 2024.

In view of the above, the writ petition being WPO 111 of 2024 is allowed.

The bill raised by the Land Acquisition Collector, Kolkata on 4th December, 2023 and the demand issued on 29th January, 2024 are set aside.

The Land Acquisition Collector, Kolkata is directed to revisit the issue upon granting reasonable opportunity of hearing to all concerned including the petitioners and take a reasoned decision within one month from the date of communication of this order, in accordance with law.

It is made clear that this Court has not gone into the merit of this writ petition and the concerned respondent shall be at liberty to deal with the matter independently in accordance with law.

There shall be no order as to costs.

Since no affidavit has been invited, the allegations contained in the writ petition are deemed not to have been admitted by the respondents.

Urgent certified website copies of this order, if applied for, be supplied to the parties expeditiously in compliance with the usual formalities.

(SUVRA GHOSH, J.)

