

OD 5

WPO/219/2024
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

AVEEK MAJUMDER
VS
THE STATE OF WEST BENGAL AND ORS

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date: 25th April, 2024.

Appearance:
Mr. Aniket Mitra, Adv.
Mr. Parashar Baidya, Adv.
. . .for the petitioner.

Mr. Ratul Biswas, Adv.
. . .for the State.

Mr. Naba Kumar Das, Adv.
Ms. Diana Ghosh Dastidar, Adv.
. . .for the respondent nos.2 to 5.

Mr. Aniruddha Chatterjee, Adv.
Mr. Abirlal Chakravorti, Adv.
. . .for the respondent no.6.

The Court: The petitioner submits that the petitioner is a nephew and the legal heir of the original tenant in respect of the subject premises under the KMDA. Subsequent to the demise of the original tenant in the year 1987, the legal heirs of the said tenant came into possession. While the property was kept under lock and key, in the year 2019, the private respondents allegedly trespassed into the property and are now in occupation thereof. Hence, the

petitioner gave a representation to the KMDA Authorities to take steps for eviction of such unauthorized occupants from the property.

Learned counsel for the private respondents, at the outset, objects to the locus standi of the petitioner to prefer the present writ petition. It is argued that in the event the respondent authorities are of the opinion that the private respondents are in unauthorized occupation, they may be at liberty to take appropriate proceedings, where the private respondents shall have a legitimate right of defence. However, in the absence of any such proceeding, the petitioner, being a busybody, cannot make such representation before the KMDA.

Heard learned counsel for the parties. The private respondents are justified in arguing that the petitioner has no locus standi to seek an eviction of the private respondents through the KMDA authorities.

If the petitioner claims to be a legal heir of the original tenant of the property in dispute, it is open for the petitioner to vindicate such right before a competent Civil Court and/or seek eviction against the private respondents, also before a Civil Court.

However, within the contemplation of the West Bengal Public Premises Eviction of Unauthorized Occupants Act, 1971, there is no scope of a third person instigating a proceeding to be initiated under the said Act.

It is entirely on the respondent authorities to take a call, if in their perception the private respondents are in unauthorized occupation, to initiate eviction proceedings in compliance of law. However, the petitioner does not have any legal right which has been infringed or any cause of action under the said statute against the private respondent and/or to make a representation seeking intervention of the respondent authorities for eviction of the private respondents.

The petitioner cannot, in the garb of such a representation, convert a private dispute between the petitioner and the private respondents into one having a public law element.

As such, there is no scope of intervention in the writ petition. Accordingly, WPO 219 of 2024 is dismissed without any order as to costs.

Urgent certified website copy of this order, if applied for, be made available to the parties subject to compliance with the requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)

SP/