

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APO/105/2024
WITH
WPO/2346/2022
IA NO: GA/1/2024, GA/2/2024
MD. NAZIM AND ORS.
VS
M/S. MONOTONA MARKETING (P) LTD. AND ORS.

BEFORE :
THE HON'BLE JUSTICE DEBANGSU BASAK
-A N D-
THE HON'BLE JUSTICE MD. SHABBAR RASHIDI
DATED : November 21, 2024.

Appearance :-
Md. Farhaduddin, Adv.
Ms. Era Ghose, Adv.
Ms. Shamama Nasrin, Adv.
...for appellants
Mr. Dhiraj Trivedi, Adv.
Mr. Bikash Kr. Singh, Adv.
....for respondent 1.
Mr. Anand Parmania, Adv.(VC)
Ms. Indumoni Banerjee, Adv.
...for the State
Mr. Alok Ghosh, Adv.
Mr. S. Panda, Adv.
...for KMC

The Court:- The appeal is directed against an order dated May 09,
2024 passed in WPO/2346/2024.

Court is informed that the writ petition is still pending.

Appellants before us claim themselves to be tenants in respect of the property in question. In support of such claim appellants rely upon rent receipts issued by the then trustee. Appellants claim that they are continuing to deposit rent month by month with the Rent Controller.

Learned Advocate appearing for the respondent no. 1/writ petitioner submits that his clients are interested in demarcation of the property. He refers to the prayer made in the writ petition. He submits that, his clients are not interested in removing any occupant of the premises, without the due process of law.

Learned Single Judge directed the Commissioner, Kolkata Municipal Corporation to make the precincts of the Fire Temple free from encroachers so that the same facilitates the preservation and protection of the heritage property.

Materials made available on record in the appeals suggest that the appellants before us were inducted as tenants into the property concerned. They are yet to be evicted by a due process of law, as tenant from such property.

These findings are based on the records made available to Court in the appeal. Since we are hearing an appeal directed against an order passed in a pending writ petition, we are not returning any final finding as to the status of the appellants before us.

We are, however, of the view that, at this stage, without further adjudication, the appellants cannot be classified as “encroachers”.

In our view, therefore, the appellants before us stand outside the scope of the direction contained in order dated May 9, 2024 directing removal of the “encroachers”.

All points raised by the parties are left open to be decided by the Court before which the writ petition is pending.

APO/105/2024 is disposed of without any order as to costs.

(DEBANGSU BASAK, J.)

(MD. SHABBAR RASHIDI, J.)

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