

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/1867/2023
M/S NILAM INDUSTRIAL CORPORATION
VS
THE WEST BENGAL SMALL INDUSTRIES DEVELOPMENT CORPORATION
LIMITED AND ORS.

BEFORE :
THE HON'BLE JUSTICE SABYASACHI BHATTACHARYYA
Date : 16th January, 2024

Appearance:

Mr. Shiv Shankar Banerjee, Adv.
Ms. Sanchita Barman Roy, Adv.
Mr. R. Mitra, Adv.
...for the petitioner.

Mr. Debabrata Banerjee, Adv.
Mr. M.P. Gupta, Adv.
Mr. Kamal Kr. Chattopadhyay, Adv.
Ms. Antara Panja, Adv.
Mr. S. Singh, Adv.
...for the respondents.

The Court : The petitioner has challenged a perceived arbitrary action on the part of the respondent authorities. It is submitted that the petitioner had been a tenant in respect of a property under the respondent authorities. Although the tenure of the tenancy has expired, the petitioner continued as a monthly tenant, since the rent was being accepted from the petitioner by the respondent authorities even after the expiry of the lease.

Vide communication dated November 29, 2022 annexed at page 23 of the writ petition, the respondent authorities made an exorbitant claim not only of security deposit but also asked for a payment of alleged outstanding dues. It was also indicated that the petitioner had to submit an undertaking that the

petitioner had to pay all outstanding dues if detected later on. It is contended by learned Counsel for the petitioner that the respondent being statutory authorities, are bound by higher standards of fairness and transparency than an ordinary lessor.

It is argued that the claim of outstanding dues is not only exorbitant but without any basis whatsoever. That apart, the blanket claim of outstanding dues “if detected later on” is also *de hors* the law and natural justice.

Pursuant to the said notice, which was replied to by the petitioner, a further show cause notice was issued on August 22, 2023.

Learned Counsel also challenges a purported Circular issued by the West Bengal Small Industries Development Corporation Limited dated August 18, 2022, whereby the rate of short term rent of stalls at the Shilpa Bhawan, Commercial Park, where the petitioner also runs a stall, has been considered and approved at the rate of Rs.80/- per sq.ft. per month for ground floor and Rs.72/- per sq.ft. per month for first floor for renewal for further 15 years (short term).

It is argued that no basis for coming to such assessment of rent has been disclosed in the said Circular. Hence, the said Circular suffers from lack of transparency and any supporting reason.

In fact, the petitioner made certain queries with regard to the said fixation of rent, annexed to the writ petition, where the petitioner sought to know, inter alia, who were the members present on the meeting of Board of Directors where it was decided that the rent would be Rs.80/- per sq.ft. per

month for the ground floor and what were the parameters for fixing the rent at the said rate etc.

However, the respondent authorities did not respond to the same. Such action on the part of the respondents, it is argued, is palpably illegal and *de hors* the law and principles of natural justice.

Heard learned Counsel for the parties.

It transpires that in the impugned notice dated November 29, 2022 the respondents have not specifically made any claim for the outstanding dues but have indicated that in the event the petitioner seeks to enter into an agreement for a short terms lease for 15 years, such amount as indicated therein as outstanding dues has to be paid by the petitioner.

The clause with regard to the undertaking of the petitioner that the petitioner shall pay all outstanding dues, if detected later on, is neither here nor there, since the same does not comprise of any specific quantified claim, nor creates any legal right in favour of the respondents.

Although the petitioner might have a point in arguing that there was no basis of such quantification, this is a premature stage to challenge such claim of the respondents.

Initially, the petitioner had, in its written reply, taken a stand that the petitioner is governed by the West Bengal Premises Tenancy Act; however, at the time of argument, learned Counsel for the petitioner submits that the governing statute is the West Bengal Government Premises (Tenancy Regulation) Act, 1976.

By that as it may, the communication dated November 29, 2022, at best, could be a precursor for subsequent legal action to be taken by the respondent. In the event the respondents make money claim and/or initiate a proceeding for eviction under the extant statute against the petitioner, it will always be open to the petitioner to take in its defence all the grounds including those agitated in the present writ petition with regard to the quantification of the claims of the respondents. However, at this juncture, it would be premature for the Writ Court to pass any direction on the respondent authorities with regard to the said quantification, the veracity of which is yet to be tested before a competent Court/Forum.

Insofar as the Circular dated August 18, 2022 is concerned, it is well within the authority of the proposed lessor to quantify a proposed rent at which it seeks to lease out the property belonging to it.

In the event the petitioner is governed by any provision of law which casts a right on the petitioner to seek fair rent to be assessed and/or if the petitioner has a valid argument as regards the respondents being bound by any specific or Schedule of rents having statutory force, it will be open to the petitioner to raise all such issues in defence in a properly constituted claim or eviction proceeding, if initiated by the respondents against the petitioner.

However, since the petitioner is already in occupation of the property in question at this juncture, it is, as discussed earlier, premature to pass any direction in that regard. In so far as the relief (a) of the writ petition is concerned, the same is obviously beyond the domain of the Writ Court, since the direction on the respondent authorities to accept rental from the petitioner

at a particular contractual rate would fall squarely within the periphery of a civil dispute between the parties where the Writ Court ought not to interdict.

In such view of the matter, WPO/1867/2023 is disposed of without any interference in the light of the observations made above.

It is made clear that nothing in this order shall preclude the petitioner from approaching the respondent authorities to negotiate the proper quantum of rent and terms of lease.

No 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.)