

13.02.2025

Item No.11
Crt.No.02
b.r.

WPA 1709 of 2025

Rukhsana Firdos & Ors.

-vs-

The Kolkata Municipal Corporation & Ors.

Mr. Asit Baran Rout
Mr. Asit Kumar Choudhury
Ms. Ishita Rout
..... for the petitioners.

Mr. Shayamal Chakraborty
Ms. Manju Jaiswal
Mr. Debajyoti Mondal
Ms. Anjana Das
Mr. Anirban Roy
.... For the Resp. nos. 8 to 9.

Mr. Dwijadas Chakraborty
.... For the Kolkata Municipal
Corporation

Mr. Amitabrata Roy
Md. Yusuf Ali
.... For the State.

Affidavit of service filed in Court today, is taken
on record.

Upon urgency being pleaded and since the
determination of the regular Bench has been assigned
to this Court, this writ petition has been taken up for
consideration.

Mr. Asit Baran Rout, learned Advocate appears
for the petitioners.

Mr. Shyamal Chakraborty, learned Advocate
appears for the private respondent nos.8 and 9.

Mr. Amitabrata Roy, learned Advocate appears for respondent no.7.

Mr. Dwijadas Chakraborty, learned Advocate appears for the respondent nos. 1 to 6.

Paragraph-2 of the writ petition shows that the petitioners are the monthly tenants under the private respondent nos. 8 and 9 in respect of the subject premises on a monthly rental basis payable according to the English Calendar month. The tenancy is absolutely for their residential purposes. **Paragraph-3** of the writ petition shows the petitioners claim that up till **March 2023** rents are all paid and thereafter the landlords refused to accept rent on and from **April 2023**. **Paragraph-4** of the writ petition shows all on a sudden on **July 26, 2024**. The landlords-Private respondent nos. 8 and 9 along with other persons came at the petitioners' residence and asked them to vacate. The landlords intended to erect a multistoried building on the premises. **Paragraph-5** of the writ petition shows, the petitioners refused to vacate. **Paragraph-6** shows in **August 2024**, the landlords arranged for labourers and mason abruptly and started the demolition process of the premises along with adjacent premises. The petitioners lodged a complaint dated **August 21, 2024** with the local police station and before the Kolkata Municipal Corporation

(for short, KMC). **Paragraph-7** shows petitioners initiated a proceeding under **Section 163(3) of BNSS, 2023**. The jurisdictional Magistrate passed an order dated **July 25, 2024** calling upon a report from the local police authority. On **August 29, 2024**, the jurisdictional criminal Court passed an order restraining the landlords-Respondent nos. 8 and 9 from undertaking any demolition work over the premises. **Paragraph-8** of the writ petition shows petitioners have already filed a Civil Suit being **Title Suit NO. 1664 of 2024** before the learned City Civil Court against the respondent nos. 8 and 9, inter alia, praying for a declaration that the petitioners are lawful and bona fide monthly tenants under them. The petitioners further claim a decree for permanent injunction that the landlords cannot evict the tenants without due process of law.

In the light of the above, learned Advocate for the petitioners submits that a statutory obligation is there on the part of the KMC to protect the petitioners as tenants at the premises. The landlords cannot proceed with the demolition work without the permission of KMC and thereby evict the petitioners without due process of law. The local police authority has also responsibility to protect the tenancy of the petitioners. Hence, this writ petition.

Mr. Shaymal Chakraborty, learned Advocate appearing for the respondent nos. 8 and 9, the landlords submits that the order of injunction prayed before the learned City Civil Court in the pending civil suit has been refused to be passed by an order dated **October 3, 2024.**

Considering the rival contentions of the parties and upon perusal of the materials on record, this Court is of the firm view that a landlord-tenant dispute is sought to be converted into a writ petition, which is not permitted in law. The averment from the writ petition on a plain reading shows it is a private tenancy dispute between the petitioners and their landlords-respondent nos. 8 and 9. KMC has no obligation to protect the tenancy of the petitioners. Criminal proceeding has already been pending before the jurisdictional criminal Court. The cause of action in the writ petition sought to be made out is purely civil in nature and Civil Suit is also pending.

In view of the above, this Court is of the firm view that this writ petition is totally frivolous and vexatious and a mala fide chance taking litigation before the writ Court.

Accordingly, this writ petition, **WPA 1709 of 2025** stands **dismissed**, without any order as to costs.

However, it is made clear that this Court has not gone into the merits of the claims and rival claims with regard to the disputes between the landlords and its tenants. The jurisdictional Civil Court shall proceed independently, as expeditiously as possible, with the adjudication of the pending Civil Suit without being influenced by observations, if any, made by this Court.

(Aniruddha Roy, J.)