

GAHC010034972022



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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/1377/2022

USHMITA DEY AND ANR
D/O- LATE NIRMAL CH. DEY, R/O- 1ST FLOOR, TRIYAMBAK BUILDING,
H/O. 11, NABAGRAHA ROAD, GUWAHATI-781003, DIST. KAMRUP(M),
ASSAM

2: SUSMITA DEY DEKA
D/O- LATE NIRMAL CH. DEY
R/O- 1ST FLOOR
TRIYAMBAK BUILDING
H/O. 11
NABAGRAHA ROAD
GUWAHATI-781003
DIST. KAMRUP(M)
ASSA

VERSUS

LIFE INSURANCE CORPORATION OF INDIA AND 2 ORS
A BODY CORPORATE ESTABLISHED UNDER THE LIFE INSURANCE
CORPORATION ACT, 1956, HAVING ITS CENTRAL OFFICE AT
YOGAKHEMA, JEEVAN BIMA MARG, MUMBAI AND REP. BY ITS EASTERN
ZONAL OFFICE, HINDUSTAN BUILDING, 4, CHITTARANJAN AVENUE,
KOLKATA-700072.

2:THE MANAGER (ESTATE)
LIFE INSURANCE CORPORATION OF INDIA
GUWAHATI DIVISIONAL OFFICE
JEEVAN PRAKASH BUILDING
S.S. ROAD
FANCY BAZAR
GUWAHATI-781001.

3:THE ESTATE OFFICER
LIFE INSURANCE CORPORATION OF INDIA

EASTERN ZONAL OFFICE
HINDUSTAN BUILDING 4
C.R. AVENUE
KOLKATA-70007

Advocate for the Petitioner : MR. N NATH, MR. T BORKOTOKY

Advocate for the Respondent : MR S NATH, DR G J SHARMA

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

20.01.2026

Heard Mr. N Nath, learned counsel for the petitioners. Also heard Mr. S Nath, learned counsel for the respondents.

2. This writ petition is directed against the order dated 25.01.2022 passed in the Reference Case No.EO/93/0321/ Misc. *Life Insurance Corporation of India* (Applicant) vs. *M/s J.D. Institute of Fashion Technology*, Guwahati (the opposite party) by the Office of the Estate Officer, Kolkata, under the Public Premises, (Eviction of Unauthorized Occupants) Act, 1971.

3. The petitioners submit that during lifetime of their father, Nirmal Ch. Dey, a lease agreement was executed by and between their late father and the Life Insurance Corporation of India (LICI) in respect of the possession of the 2nd and 3rd floor of the public premises, namely, Jivan Nivesh Building which is located

at Panbazar in the District of Kamrup, Assam. Subsequently, the possession of these premises were handed over to the LICl by the petitioners, however, according to the LICl, since certain outstanding amounts were due, the proceedings under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 was initiated by the Estate Officer. Learned counsel for the petitioners submits that perusal of the impugned order dated 25.01.2022 clearly reflects that the proceedings were initiated on behalf of the LICl against one M/s JD Institute of Fashion Technology, who was the opposite party in the Reference Case No.EO/93/0321. The impugned order was passed *ex parte* and the Estate Officer returned the findings that recovery of arrears of rent along with interest from the opposite party i.e. M/s JD Institute of Fashion Technology under Section 7(2) and 7(2)(A) of the PP Act, 1971 be proceeded with along with an order for recovery of damages from the opposite party under Section 7(2) of the PP Act ,1971. A total amount of Rs.12,61,518/- was calculated by the Estate Officer as recoverable from the opposite party named therein. Learned counsel for the petitioners submits that the writ petitioners' late father had executed the lease deed but in the name of M/s JD Institute of Fashion Technology with the LICl in respect of the said premises, particulars of which are found in the said impugned order. However, it is the claim of the petitioners that they do not represent M/s JD Institute of Fashion Technology and at no point in time had

they represented before the LICI that they are the authorized representative of the respondents, namely, M/s JD Institute of Fashion Technology. However, notwithstanding that the impugned order dated 25.01.2022 was served on the writ petitioners in spite of their objections that they are not the proper party on which the impugned order dated 25.01.2022 was required to be served on. Apprehending that an amount of Rs. 12,61,518/-, as reflected in the schedule to the order, is sought to be recovered from the petitioners, the present writ petition has been filed. Pursuant to the notice being issued, the respondents have appears and have filed their counter affidavit.

4. The respondents have raised preliminary objection that the writ petitioners have no *locus* to challenge the impugned order dated 25.01.2022 passed by the Estate Officer as the order dated 25.01.2022 passed by the Estate Officer is directed against the opposite party no.1, namely, M/s JD Institute of Fashion Technology and the present writ petition is not preferred by the said opposite party. On this limited issue, in response to a pointed query by the Court, Mr. S. Nath, learned Standing Counsel for LICI, reiterates his submission, as stated in the affidavit, that the respondents' claim is based on the order dated 25.01.2022 passed by the Estate Officer in respect of the opposite party, namely, M/s JD Institute of Fashion and Technology.

5. Under such circumstances, it is clear that the respondents by their averments in their affidavit as well as in submissions made before the Court by the learned counsel for the respondents that the claim reflected in the impugned order dated 25.01.2022 amounting to Rs. 12,61,518/- is directed against the opposite party therein, namely, M/s JD Institute of Fashion and Technology and as a consequence thereof that the writ petitioners have no *locus* to challenge the impugned order dated 25.01.2022 passed by the Estate Officer, Kolkata; this Court is of the view that the apprehension of the writ petitioners expressed in the present writ petition stands answered in view of their specific stand of the respondents that their claim for recovery in terms of the impugned order dated 25.01.2022 passed by the Estate Officer, Kolkata under the PP Act, 1971 is directed only against the opposite party M/s JD Institute of Fashion and Technology.

6. With the above observation the writ petition therefore stands disposed of, recording the submissions made by the learned Standing Counsel, LICl for the respondents.

7. Learned counsel for the petitioners has also raised the issue of jurisdiction of the Estate Officer under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, however, the same has not been answered by this Court

in view of the directions passed in the preceding paragraphs. All such questions are left open to be addressed by the petitioners in the appropriate proceedings, if the need so arises.

JUDGE

Comparing Assistant