

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.31305 of 2021

(Through Hybrid mode)

Binapani Samantray and others

....

Petitioners

Mr. A. Mohanty, Senior Advocate

-versus-

***Commissioner of Endowments,
Odisha and others***

....

Opposite Parties

Mr. A. R. Dash, Advocate
Ms. P. Naidu, Advocate

CORAM:

**JUSTICE ARINDAM SINHA
JUSTICE SANJAY KUMAR MISHRA**

**ORDER
09.05.2023**

सत्यमेव जयते

W.P.(C) No.31305 of 2021 and I.A. no.14405 of 2021

Order No.

07.

1. Mr. Mohanty, learned senior advocate appears on behalf of petitioners. They claim to be tenants in some shop rooms of Sri Radharani Puja Samiti, Bhubaneswar. He submits, pursuant to order made by this Court, impugned report came to be. His clients are aggrieved by the report inasmuch as recovery of arrear rents and fresh tenancy agreements have been directed to be made thereby.

2. He submits, his clients constructed the shop rooms. They are shopkeepers doing small businesses. They are maintaining the shops by themselves. In the circumstances and otherwise, there is no similarity to apply G.A. Department rental parameters for assessing rent of the shops under occupation of his clients. He submits, his clients are entitled to have fixation of rent commensurate with factors on the ground, including area of occupation and the volume of business that they are conducting therefrom. The enhanced rent must be made applicable prospectively. He seeks interference.

3. Ms. Naidu, learned advocate appears on behalf of the Commissioner and submits, the report has been duly prepared. All factors prevailing on the ground have been taken into consideration. The report says unauthorized construction have been made by the shopkeepers as well as unauthorized subletting. Claim of construction of the shop rooms made by the shopkeepers was disputed inasmuch as no proof of expenditure has come to light. She submits, many shopkeepers have accepted the report and entered into fresh tenancy agreements, upon having paid on arrear rents. She points out that audit team constituted by the Accountant General found that there is deficit realization of rent amounting to Rs.3.11 crores. She submits further,

petitioner no.7 has also accepted the report and done what was required thereunder.

4. Mr. Dash, learned advocate appears on behalf of opposite party nos.3 and 4 and points out that at the time of making of the report, 37 out of 73 shopkeepers had accepted the same. The number has now increased to 45. He submits, there should not be interference.

5. Prima facie appreciation is that out of 73 shopkeepers, 45 have found the report to be good. The remaining are a minority, who are seeking to challenge the report, which will upset the acceptance by the majority. This is in addition to materials that appear in the report, submissions made on behalf of the Commissioner and opposite party nos.3 and 4 recorded above.

6. Petitioners are to consider their position. We adjourn the writ petition.

7. List on 27th June, 2023. The interim order to continue till next date of hearing.

(Arindam Sinha)
Judge

(S. K. Mishra)
Judge