

W.P.A. 28998 of 2023

R.D.B. Builders Private Limited & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Soumya Majumder
Mr. Mainak Ganguly
Mr. Siddharth Shroff ... for the petitioners

Mr. Amal Kr. Sen
Ms. Sahina Sumi ... for the State

Affidavit of service is taken on record.

The present writ petition has been filed challenging the orders dated 03.7.2023 and 31.7.2023 passed by the Principal Secretary Housing .

Learned counsel for the petitioners states that both the orders passed by the authority are in contravention of the judgment passed by the Hon'ble Supreme Court in **Forum For People's Collective Efforts (EPCE) and Another vs. State of West Bengal and Another** reported as **(2021) 8 SCC 599**.

Learned counsel for the petitioners has drawn the attention of this Court to the above judgment wherein the Hon'ble Supreme Court has declared the WB-HIRA are repugnant to RERA and held it to be unconstitutional. It is the submission of the learned counsel for the petitioners that in terms of the above judgment, the action taken by the Principal Secretary Housing is in contravention to the law laid down by the Hon'ble Supreme Court.

Learned counsel for the respondents who appeared on advance notice states that an exception has been carved out in

the order wherein the Hon'ble Court has observed that any prior registration, sanction and permission given under the WB-HIRA shall not be held to be illegal prior to passing of the above said judgment.

Prima facie this Court is not in agreement with the submission of the learned counsel for the respondents. From the reading of the said judgment it is apparent that the above said concessions have been made only for the projects which were in existence prior to the passing of the judgment and any subsequent action taken by the respondents is in complete contravention of the law laid down by the Hon'ble Supreme Court in the case of Forum For People's Collective Efforts (EPCE) and Another (supra).

Issue notice.

Learned counsel for the respondents seeks four weeks time to file affidavit-in-opposition. Reply thereto, if any, within two weeks thereafter.

List this matter after **six weeks**.

In the meanwhile, there shall be a stay of operation of the impugned order dated 31.7.2023.

(Gaurang Kanth, J.)