

06.05.2021
Sl. No.05
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE
(Via Video Conference)

WPA 9792 of 2021

Theism Ceemec Pvt. Ltd.
Vs.
Commissioner of Police, Bidhannagar
Police Commissionerate & Ors.

Mr. Soumava Mukherjee,
Mr. Sohan Roy

....for the petitioner.

Mr. Dipankar Mondal

....for the respondent nos.4, 5 & 6.

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

The petitioner says that the petitioner being a tenant at the ground floor of a building known as “Suman Villa”, situate at 48/6, Jessore Road, Kolkata – 700055 (hereinafter referred to as the said building) has set up a new diagnostic centre. The petitioner further alleges that the respondent nos.4, 5 and 6 (private respondents) are preventing the petitioner from operating the business and/or the diagnostic centre, though the petitioner has all requisite licence and registration for operating such diagnostic centre. The petitioner says to have made a complaint before the Lake Town Police Station on 10th March, 2021 as against the private respondents, but no step has yet been taken by the police authorities against the private respondents. Complaining of such inaction, the petitioner has filed the instant writ petition.

The State remains unrepresented despite service.

On behalf of the private respondents, it is submitted that the petitioner had been inducted as tenant in respect of a portion of the parking space at the ground floor of the said building. The private respondents are residents of the said building which has been illegally converted into an commercial unit. The objection of the private respondents is regarding installation of a heavy generator and other equipments comprising with the fire and safety norms. The generator is also likely to cause sound pollution and nuisance. The private respondents say that the petitioner was initially operating a doctor's chamber from the commercial unit. The petitioner now wants to operate a diagnostic centre in a residential building which is likely to compromise the health safety of the inmates of the building particularly during the pandemic. The private respondents also say that a proceeding under Section 144(2) of the Code of Criminal Procedure (Cr. P. C.) is also pending in respect of the petitioner's attempt to forcibly operate the diagnostic centre.

After hearing the parties, it appears that the dispute between the petitioner and the private respondents have the trappings of civil disputes. The petitioner cannot be allowed to take advantage of the situation by filing a writ alleging police inaction to obtain orders therein to operate the diagnostic centre in respect of purely civil disputes *inter se* between the occupants and the petitioner of the said building. The police complaint made by the petitioner, however, requires attention of the police authorities to bring the same to a logical conclusion for identifying whether any offence alleged has been committed.

The writ petition is disposed of by directing the respondent no.2, being the Officer-in-Charge, Lake Town Police Station, to see that there is no breach of peace at or in and around the said building, particularly keeping in mind the present pandemic situation. The respondent no.2 shall also look into the police complaint dated 10th March, 2021 made by the petitioner and enquire into the matter in a free, fair and transparent manner, if so required depending upon the offences disclosed in such complaint. The police authorities shall be free to take such steps as permissible in law after completion of the enquiry as to petitioner's complaint. Nothing further remains to be adjudicated in this writ petition.

Since I have not called for any affidavits, the allegations made in the writ petition are deemed to have not been admitted by the respondents.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance with the necessary formalities.

(Arindam Mukherjee, J.)