

S/L 7
30.11.2021
Court. No. 19
GB

WPA 13264 of 2021

Suparna Chatterjee
Vs.
The State of West Bengal & Ors.

(Through Video Conference)

*Mr. Dibyendu Chatterjee,
Mr. Tirthankar Das.*

...for the Petitioner.

Mr. Soumya Banerjee

...for the Municipality.

*Mr. Ansar Mondal,
Ms. Srilekha Bhattacharyya.*

...for the State.

Mr. Anirban Das.

...for the Respondent No.5.

Affidavit-of-service filed in Court today be kept with the record.

The petitioner is a married daughter of one Kanika Chatterjee, who has claimed one-third share in the business run by the respondent No. 6 under the name and style of 'Chatterjee Cycle Mart'. The contention of the petitioner is that her late father, Samarendra Chatterjee was the proprietor of the said cycle repairing shop and as such, the petitioner had a right over the said shop and the business as an heir of the deceased.

It is urged by the learned advocate for the respondents as also the municipality that the tenant in respect of the said shop was the respondent no.6. The certificate of enlistment

was issued in the name of the business and Samaranedra Chatterjee was shown as the proprietor. After the demise of the father, as the petitioner and the respondent no.7 were minors, the certificate of enlistment was issued in the name of the mother as proprietor thereof and the mother continued to run the business. It is also submitted that the father was running the shop from the premises, of which the mother was the tenant and the proprietorship continued with the mother, although the licence may have been issued in the name of the father, earlier.

The petitioner has now prayed before the municipality for cancellation of the certificate of enlistment. The petitioner has stated before the authority that at the time of the death of the father, the petitioner was a minor. As such, the mother had been granted the certificate of enlistment by the municipality and the mother was running the business.

The petitioner further submits that the mother has refused to acknowledge her share in the property and the business and hence, the writ petition has been filed alleging inaction on the part of the municipal authorities in cancelling the certificate of enlistment granted in the name of the mother/respondent no.6. The respondent no.7 the son and the petitioner both have attained majority.

The disputes before this Court cannot be resolved in a writ proceeding. The petitioner has claimed title as an heir of her father in respect of the business, which is now being run by the mother under a valid certificate of enlistment as

proprietor thereof. Although, it is the case of the petitioner that the premises from which the shop is being run, belonged to the father, a rent receipt has been produced before this Court which indicates that the mother was a tenant in respect of the premises in question. It is also submitted that the mother had already been the proprietor of the business although the certificate of enlistment, which was issued earlier was in the name of the father as the father was running the business on her behalf.

Whether the petitioner has a share in the business is a matter to be decided by a civil court. The petitioner is at liberty to approach the civil court in accordance with law for declaration of her 1/3 share in respect of the property of her father, in accordance with law. As the petitioner has made a representation before the municipality, this Court is of the opinion that the said representation of the petitioner dated July 30, 2021 must be disposed of by the competent authority of the municipality in accordance with law upon hearing the petitioner as also the respondent nos.6 and 7. A reasoned order shall be passed and communicated to all concerned.

The entire exercise shall be completed within a period of two months from date of communication of this order.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)