

10.12.2021
Court No. 19
Item no.16
sn

WPA 14155 of 2021

Smt. Rupa Saha & Anr.
Vs.
The State of West Bengal & ors.

Mr. Billwadal Bhattacharyya
Mr. Soumya Ray
Mr. Kaustav Sen

....for the petitioners

Mr. Raja Saha
Mr. B.B. Mullick

....for the State.

Mr. Alok Ghosh
Mr. S.K.Debnath

..for the KMC

Mr. Ranjan Kali
Mr. Avitava Maity

..for the respdt.no.9

Mr. Mrinal Kanti Ghosh
Mr. Amit Halder
Mr. Nilay Baran Mondal

..for the respdt.no.8

Heard learned advocates for the respective parties.

The petitioner is aggrieved by the incorporation of the names of the respondents Nos.8 and 9 in the trade licence granted to M/s Indian Silk Museum. According to Mr. Ghosh, learned Advocate for Kolkata Municipal Corporation as claims have been made by the parties for incorporation of the names as heirs of the original proprietor of the business late Ajit Saha, the names of the respondents Nos.8 and 9 were incorporated. Mr. Kali and Mr. Ghosh place

reliance on an order of a Division Bench of this court to show that the parties had agreed that the business would be run jointly and the Appeal Court also directed that the parties would be bound by the agreement. According to them the order in the First Appeal is final.

The order dated November 9, 2021 passed by this court is modified to the extent that the petitioners can continue the business, as already allowed in the Misc. appeal 288 of 2017, but the Trade Licence is not interfered with.

This Court is of the view that issuance of trade licence in the names of all the surviving heirs of the deceased proprietor of the Indian Silk Museum is not causing any prejudice to the business of the petitioners in any way and the same is not a document of title or ownership of the business.

With regard to the incorporation of the names of the other heirs of the deceased proprietor in the trade licence, the same shall abide by the decision of the civil court. Parties shall not claim any equity on the basis of the same.

This Court has not expressed any opinion on the right, title and interest of the parties in respect of the business and the shop room, in question.

Needless to mention, that the certificate of enlistment/ trade licence issued by the Corporation

shall not be used to claim possession or title by either of the parties. The business of the petitioners shall not be disturbed in any way.

The licence may be renewed in accordance with law as the Corporations deems fit and proper and subject to the decisions of the civil court.

This Court has not gone into the merits of the claims and counterclaims of the parties.

The writ petition is, thus, disposed of.

There will be, however, no order as to costs.

Parties are directed to act on the server copy of this order.

(Shampa Sarkar, J.)