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ORDER SHEET

WPO No. 604 of 2021

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

BULBUL BISWAS
Versus
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE SHAMPA SARKAR
Date : 13th September, 2021.

[Via video conference]

Appearance :
Mr. Debashis Banerjee, Adv.
Mr. Suprem Naskar, Adv.
For the petitioner.

Mr. Biswajit Mukherjee, Adv.
Mr. Swapan Kumar Debnath, Adv.
For K.M.C.

Mr. Sumalya Chakraborty, Adv.
For the respondent no.4.

Mr. Sabyasachi Bhattacharjee, Adv.
Mr. Kunal Banerjee, Adv.
For the respondent no.5.

The Court:- The petitioner claims to be the owner of a residential building situated at premises No. 67, Garfa Main Road. The number of the premises as 67 Garfa Main Road has been given by the Kolkata Municipal Corporation and the said number is used in its assessment register as well. However, the postal address of the premises

is 89 Garfa Main Road, Kolkata. In the tax receipt issued by the Kolkata Municipal Corporation in favour of late Jitendra Chandra Roy, the deceased father of the petitioner, the premises has been mentioned as 67 Garfa Main Road with the mailing address as 89 Garfa Main Road.

It is the contention of the petitioner that the Kolkata Municipal Corporation issued a licence in favour of the respondent no.4 based on forged documents. The allegation is that the respondent no.5 had inducted the respondent no.4 as a tenant in the premises without any knowledge of the petitioner and against the Will of the petitioner that the respondent No.5 did not have any authority to do so. It is further submitted that the Kolkata Municipal Corporation was approached by the petitioner with a complaint dated July 6, 2021. The Chief Manager, License Department was requested by the petitioner to cancel the certificate of enlistment granted to the respondent no.4 on the basis of incorrect documents. That the respondent No.5 was the owner of a separate premises.

It is submitted that the said premises was re-numbered by the Kolkata Municipal Corporation as 67 Garfa Main Road, but in the Will on the basis of which the petitioner had become owner of the premises, the address was 89 Garfa Main Road. According to the petitioner, premises Nos. 67 Garfa Main Road and 89 Garfa Main Road are one and the same premises. The respondent no. 4 has unauthorizedly and forcibly entered into the premises. Thus, the respondent no. 4 could not have been given the certificate of enlistment

at the incorrect address on the basis of either a forged document or on the basis of an incorrect address.

Mr. Sabyasachi Bhattacharjee, learned advocate appearing on behalf of the respondent no.5 submits that his client has nothing to do with the premises and the tenants and they have not executed any rent agreement with the respondent no.4 (Dental Clinic). The alleged rent agreement was not authorized or signed by the respondent no.5. The allegations are that the signature of the respondent no.5 must have been forged.

Mr. Chakraborty, learned advocate appearing on behalf of the respondent no.4, submits that the respondent no.5 executed a rent agreement with the respondent no.4 and as such the respondent no.4 has come in possession of a portion of the premises in question and the Corporation upon being satisfied with all statutory compliances that the Corporation cannot decide any title dispute.

Mr. Mukherjee, learned advocate appearing on behalf of the Corporation, submits that the Corporation granted certificate of enlistment on the basis of the documents with regard to statutory compliances and occupation. The rent agreement would suffice to prove the fact that the respondent no.4 was put in possession of the said premises.

Mr. Banerjee, learned advocate appearing on behalf of the petitioner, hands over a guideline to show that if on receipt of the complaint or otherwise the Corporation has any reason to disbelieve the

factum of occupation or other information provided by the persons seeking the certificate of enlistment, the Corporation may also inspect the premises to ascertain the actual state of affairs.

However, there is a dispute with regard to the actual identity of the premises i.e. whether the same is 67 Garfa Main Road or 89 Garfa Main Road or whether premises no. 67 and 89 Garfa Main Road are one and the same premises.

Thus, on this limited issue the Corporation is directed to deal with the representation of the petitioner and pass a reasoned order upon hearing all the parties. The Corporation shall make an inspection in presence of the parties. If it is found that the premises are one and the same and the Corporation is satisfied with the documents supplied by the respondent no.4 for grant of certificate of enlistment, the Corporation shall pass an order accordingly. However, if any discrepancy in the identity of the premises are found then the Corporation shall pass an order in accordance with law. The question of title and the legality in the possession shall not be looked into but if the rent agreement bears the signature of the respondent no.5 and the respondent no. 5 denies the same, in that case the possession of the respondent no.4 becomes doubtful and the Corporation will decide whether the same would be a valid document of possession.

Accordingly, the writ petition is disposed of, by directing the competent authority of the Corporation to look into the issues and consider the grievance of the petitioner as per the representation dated

July 6, 2021 in accordance with law upon hearing all concerned by passing a reasoned order in accordance with law. The order shall be communicated to all.

The entire exercise shall be completed within ten weeks from date.

(SHAMPA SARKAR, J.)

snn.