

Item No. 1

In The High Court At Calcutta  
Constitutional Writ Jurisdiction  
Appellate Side

24.06.2022  
Ct-24

WPA 6206 of 2022  
Sri Bahadur Rajak

v.

The Uttarpara Kotrung Municipality & Ors.

Mr. Kaushik Chandra Gupta  
... for the petitioner.

None appears on behalf of the respondents despite service.

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

The petitioner claims to be the tenant in respect of premises No. 60, Amar Nath Road, P.O. & P.S.- Uttarpara, District-Hooghly, Pin-712258.

The petitioner claims that he is running his business in the name and style of M/s. Hotel Orbit under the landlord Sri Rabindra Nath Ghosh, the respondent no. 4 herein. The said Sri Rabindra Nath Ghosh was also a tenant in the said premises who purchased the entire tenanted property including the petitioner's tenancy in the year 2006.

Landlord tenant dispute cropped up between the petitioner and the respondent no. 4 and a civil Suit being TS No. 223 of 2020 is pending consideration before the Ld. Civil Judge (Junior Division), 1<sup>st</sup> Court, Srerampore, Hooghly.

In terms of the order passed by the learned Civil Judge the petitioner is paying the rent before the learned Court below.

The petitioner alleges that the respondent no. 4 disconnected the water connection of the petitioner. Without the water connection it is difficult for the petitioner to run his business. The petitioner is also not being able to obtain the trade license in view of the objection raised by the respondent no. 4 before the Municipality.

It has been submitted that there is no order passed by any judicial forum restraining the Municipality either from issuing the trade license or for grant of water connection in favour of the petitioner.

The petitioner alleges that series of representations have been made before the Municipality for effecting water connection and for issuance of the trade license in his favour but none of the representations have been answered by the Municipality.

The petitioner relies upon a judgment delivered by this Hon'ble Court in the matter of Kamal Adhikary v. State of West Bengal & Ors., reported in 2006(1) CHN 698, wherein the Court was pleased to hold that according to the West Bengal Municipal Act, 1993 the right of an occupier of a premises to get water supply subject to compliance of the necessary formalities is provided in the Act or the Rules framed thereunder. The

consent of the owner or the landlord is not required for getting the water connection.

The petitioner also relies upon an unreported order dated December 15, 2016 passed in WP 22763(W) of 2016 (Salma Begum v. Barasat Municipality, North 24-Parganas & Ors.) wherein the Court was pleased to hold that the Municipality is vested with the power to grant an enlistment certificate to traders. While granting the enlistment certificate, the Municipality is to only see that the trader carries on business. It is not open for them to investigate his title to the property from where he carries on business or whether he holds licenses from other authorities to carry on this business, unless it is a condition precedent to grant of an enlistment certificate.

The Court while passing the aforesaid order was pleased to take into consideration several other orders passed by this Court on the said issue. The Court was pleased to direct the Municipality to renew the enlistment certificate of the petitioner.

In the present case, the petitioner relies upon the enlistment certificate which was issued in his favour in the year 2015-2016. The petitioner also relies upon the receipt showing application for renewal of certificate of enlistment in the year 2020-2021 which was submitted before the Municipality on June 16, 2020.

The petitioner has annexed the receipt showing payment of fees on account of the current license fees,

the arrears and penalty received by the Municipality on June 16, 2020.

The petitioner has annexed the representations filed before the Municipality in July 2021 and October 2021 praying for issuance /renewal of the certificate of enlistment and for providing water connection at the premises No. 60, Amar Nath Road.

As none has appears to oppose the prayer of the petitioner, accordingly, the Court holds that the principles of non-traverse will apply in the present case.

The issue of providing separate water connection in the premises without obtaining consent from the co-owner or the landlord has been decided by the Court in the matter of Kamal Adhikary (*supra*). Section 231 of the West Bengal Municipal Act, 1993 recognizes the right of an occupier to get water connection.

In Salma Begum's case (*supra*) the Court was pleased to hold that the Municipality is to only see whether the trader carries on business and not to investigate the title to the property from where he carries on business or whether he holds licenses from other authorities or not.

Accordingly, the writ petition is disposed of by directing the Uttarpara Kotrung Municipality to take prompt necessary steps for granting separate water connection at the premises of the petitioner upon payment of the necessary charges and upon compliance

of the necessary formalities within a period of four weeks from the date of communication of a copy of this order.

The Municipality is also directed to take steps for renewal of the trade license of the petitioner upon payment of the necessary charges and upon compliance of necessary formalities within a period of four weeks from the date of communication of a copy of this order.

The respondent no. 4 is restrained from obstructing in any manner the grant of water connection and the issuance of license in favour of the petitioner.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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**(Amrita Sinha, J.)**