

14.03.2022  
Court No. 19  
Item no.15  
CP

WPA 13165 of 2021

Ratan Kumar Dhar  
Vs.  
Kolkata Municipal Corporation & ors.

Mr. Rahul Karmakar  
Ms. Sohini Bhattacharyya

....for the petitioner.

Mr. Debdutta Raha  
Ms. Tonoya Ghosh

....for the respondent nos. 8, 9 & 10.

Mr. Gopal Chandra Das  
Mr. Rudranil De

....for the K.M.C.

Mr. Indrajit Sen  
Mr. Subhas Medda

...for the respondent no. 11.

Mr. Jahar Dutta  
Mr. Bipin Ghosh

....for the State.

Affidavit of service is taken on record.

Report filed by the police authorities is taken  
on record.

The petitioner is a resident of a flat situated at  
premises no. 19/1A, Bose Pukur Road, Kasba,  
Kolkata --700042. It is the allegation of the petitioner  
that the respondent nos. 8 to 11 have converted their

respective portions in the said premises for business purposes without obtaining permission, thereby violating Section 416 of the Kolkata Municipal Corporation Act, 1980.

It is submitted that the businesses which are being run from the respective premises by the said respondents, has caused difficulty in the enjoyment of the petitioner's respective portions in the building. Petitioner's ingress and egress has been disturbed. A complaint was lodged before the corporation which was not respondent to. Hence this writ petition.

Mr. Raha, learned advocate appearing on behalf of the respondent nos. 8 to 10, submits certain documents, in order to show that the conversion of the flat in question for commercial use was done sometime in 2009 and the corporation has been accepting taxes at the commercial rates. He further submits that the petitioner has suddenly raised the dispute with regard to the said user despite having remained silent for more than 10 years. It is further submitted that the nature of business run from the said premises by the respondent nos. 8 to 10 does not endanger either the liberty or the security of the inmates and also does not create any disturbance in the ingress and egress of the petitioner, to his flat.

Mr. Medda, learned advocate appearing on behalf of the respondent no. 11, submits that premises no. 19/1A of Bose Pukur Road, is not being used for any business. The business is being operated in another location. The wife of Mr. Debasish Bardhan is the proprietor of the concerned business and also the owner of the flat in question.

Having heard the learned advocates for the respective parties, and as Mr. Das, learned advocate appearing on behalf of the Kolkata Municipal Corporation, has submitted that a show-cause notice has been issued to the parties to appear before the corporation for a hearing, nothing survives to be decided in the writ petition.

The show cause notice under Section 416 (5) has been issued by the corporation on March 11, 2022. The parties submit that none of them have received the notice. This court directs that the respondent Nos.8 to 11 will answer to the show cause notice already issued by the corporation. This court has not decided the merits of the case.

The answering parties to the show-cause will file the irrespective applications / representations/ objections before the corporation, within March 31, 2022 justifying their respective stands. Upon receipt of the answers of all the parties, namely, the respondent nos. 8 to 10 and the wife of Mr. Debasish

Bardhan, the proprietor of the business, a hearing shall be given to the parties including the petitioners. The date of hearing shall be scheduled with 7 days clear notice to the parties. Thereafter, upon hearing the contention of the parties, and upon perusal of their documents, a reasoned order shall be passed and communicated.

The court has not gone into the merits of the claims and counter-claims of the parties and the issues shall be decided independently and in accordance with law.

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

As affidavits are not called for, allegations made against respondent nos. 8 to 11 are deemed to have been denied.

The writ petition is, thus, disposed of. There shall be no order as to costs.

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

**(Shampa Sarkar, J.)**