

16.11.2022
Item No.67
Crt.No.24
b.r.

W.P.A 16624 of 2022

Sri Sukumar Saha
-vs-
The State of West Bengal & Ors.

Mr. Indranuj Dutta
Mr. Jhantu Kundu
Mr. Rahul Ghosal
..... for the petitioner.

Affidavit of Service filed in Court today be taken on record.

The petitioner seeks renewal of the Certificate of Enlistment.

The petitioner is a tenant in respect of the holding No. 241, North Feeder Road, Post Office- Shyamnagar. P.S. Jagaddal, District- North 24-Parganas. The petitioner claims that he is carrying on business from the said premises on the basis of the license issued by Garulia Municipality. Last license issued in favour of the petitioner was valid till 31st of March, 2020.

There is a dispute between the petitioner and the private respondents who are the sons of the deceased landlords. A civil suit in between the parties is pending adjudication.

The learned court below in the pending suit being T.S. No. 39/2020 passed an order restraining the defendants, i.e the private respondents herein, from

dispossessing the plaintiff, i.e the petitioner herein, from the suit property without due process of law.

Learned advocate for the petitioner contends that the interim order passed by the court below is subsisting till date.

The grievance of the petitioner is that the Municipality is neither renewing the Certificate of Enlistment nor handing over copy of the application so that the petitioner may apply for renewal of the Enlistment Certificate.

The petitioner, through the learned advocate, filed representation before the Municipality in May, 2022 and allege that the same has not been taken up for consideration till date.

None appears on behalf of the private respondents/landlords and the Municipality despite service. Affidavit of service filed in court today is taken on record.

In the absence of the respondents, this Court is not in a position to decide the issue conclusively.

Prima facie, it appears that dispute between the landlord and tenant will not stand in the way of the Municipality to issue or renew the Certificate of Enlistment in favour of the petitioner. The Municipality ought not to enter into the private disputes in between the landlord and tenant and only restrict consideration

as to whether the applicant, the petitioner herein, intends to carry on business from the subject premises and he complies the formalities for obtaining the license.

If the petitioner is found to be in possession of the subject premises and running business from there, his prayer for renewal of license cannot be refused. The disputes between the landlord and tenant is not required to be looked into/ considered or adjudicated for the purpose of renewal of license.

In view of the above, the instant writ petition is disposed of by directing the License Inspector, Garulia Municipality being the respondent no.5 herein to take a decision with regard to the prayer of the petitioner for renewal of his Certificate of Enlistment in light of the observations made herein above, at the earliest, but positively within a period of five weeks from the date of communication of this order.

If required, the aforesaid respondent may afford an opportunity of hearing to the petitioner as well as the private respondents.

A reasoned order shall be passed by the License Inspector and communicated to the parties immediately thereafter.

The learned advocate for the petitioner is directed to forward a copy of the representation dated 6th May,

2022 along with all documents in support of his prayer for renewal of his Certificate of Enlistment to the aforesaid respondent at the time of communicating the order of Court.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance with all necessary formalities.

(Amrita Sinha,J.)