

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction

Before:

The Hon'ble Mr. Justice Jay Sengupta

W.P.A. 18400 of 2022

Lakshmi Narayan Nigam
Vs.
State of West Bengal & Ors.

For the Petitioner	:	Mr. S. E. Huda, Mr. A. K. Rai.
For the State	:	Mr. Sirsanya Bandopadhyay, Mr. Arka Kumar Nag.
For the Respondent no.4	:	Mr. S. Mukhopadhyay.
Heard on	:	27.09.2022
Judgement on	:	27.09.2022

Jay Sengupta, J. :

1. This is an application under Article 226 of the Constitution of India praying for direction upon the respondent nos.1 to 3 to consider and give effect to upon the various representations made by the petitioner in respect of a ration shop, which was being run at the petitioner's tenanted premises.
2. Supplementary affidavit filed on behalf of the petitioner is taken on record.

3. Affidavit of service was filed on 09.09.2022.

4. Although the State and the respondent no. 4 are represented, no one appears on behalf of the respondent nos.5, 6 and 7. It is pertinent to mention that on the last occasion i.e. on 07.09.2022, the respondent nos.5 and 6 were represented.

5. Learned Counsel appearing on behalf of the petitioner submits as follows. The petitioner is a tenant in respect of a shop room owned by the respondent no.4. The petitioner had allowed permissive position of the shop room to respondent nos.5 and 6 who started running a fair price shop from the said room. The petitioner and the landlord had given 'No Objection Certificate' for running of the said shop. After sometime, the husband of the respondent no.6 passed away. The respondent no.7 was thereafter allowed to run the said shop. Necessary 'no objections' were given. However, on 28.01.2022 a notice was given by the respondent authorities to the concerned private respondents to produce necessary documents, particularly in respect of the tenancy for the said shop room. The respondent nos.5 and 6 submitted a false affidavit before the concerned authorities that they were tenants at the said shop room and also relied on a forged rent receipt. In view of the above, the private respondents should not be allowed to run the said shop from the premises where the petitioner is a tenant.

Despite making several representations in this regard, the respondent authorities have not acted.

6. Learned counsel appearing on behalf of the respondent no.4 supports the contentions of the petitioner and further submits that the landlord had, in fact, filed an application under Section 156(3) of the Code of Criminal Procedure regarding making of such statements and using forged documents by the private respondent nos.5 and 6.

7. Learned counsel for the State submits as follows. Although the dispute is primarily between two private parties about the rights over a certain property, nevertheless the respondent authorities would not be in a position to consider the representations made by the petitioner for not allowing the respondent nos.5, 6 and 7 from running the said fair price shop from the said premises.

8. I have heard the submissions of the learned Counsels appearing on behalf of the parties and have perused the writ petition and the supplementary affidavit.

9. The petitioner has made out a prima facie case for the respondents to consider whether the respondent nos.5, 6 and 7 should be allowed to run the fair price shop from the said premises.

10. In view of the above, the respondent no.3 shall consider the representations made by the petitioner in this regard within a period of two months from the date of communication of this order after hearing the interested parties.

11. With these observations, the writ petition is disposed of.

12. Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)