

24.03.2022
Sl. No. 21
ss

W.P.A. 20937 of 2021

Prafulla Banik & ors.

Vs.

The State of West Bengal & ors.

Mr. Anupam Hait

... for the petitioners

Mr. Nayan Chand Bihani

Ms. Manisha Nath

... for the K.M.C.

Mr. A. K. Guha

Mr. N. Ghosh Dastidar

... for the State

Mr Amarnath Sen

Mr. Malay Dhar

Mr. Pranab Kumar Ghosh

Mr. Amit Mahata

... for the respondent nos.6 to 8

The petitioners are aggrieved by the grant of trade licence in favour of the respondent nos.8 and 9.

It is submitted that by practising fraud upon the Corporation, the said trade licence was obtained by the respondent nos.8 and 9. The respondent nos.6 and 7 claimed to be the exclusive owners in possession of the concerned property situated at 145, Rajdanga Main Road, Kolkata-700107.

It is further submitted that the petitioners received an answer from the Corporation under the Right to Information Act from which the petitioners came to know that the respondent nos. 6 to 9 had communicated to the Corporation that the respondent

nos.6 and 7 were the exclusive owners of the said house and on the basis of such communication and information, the trade licence was granted.

Learned Counsel appearing on behalf of the respondent nos.6 to 9 submits that prior to the restaurants, an electrical shop was being run from the said premises and trade licence has been granted by the Corporation in accordance with law. No objection had been raised at that point of time.

The Civil Court refused to pass an order of injunction restraining the said respondents from running the said restaurants.

It is further submitted that the respondent nos.6 to 9 shall not claim any equity in respect of the said restaurants and the portion occupied for such business. The business, occupation and trade licence, shall abide by the result of the partition suit. The fire licence, food safety licence and all other compliance required to run the aforementioned restaurants have been fulfilled by the concerned respondents.

Learned Counsel for the Corporation submits that pursuant to the complaint received from the petitioners, a show-cause notice has been issued to the respective parties.

Under such circumstances, the writ petition is disposed of with a direction upon the competent authorities of the Kolkata Municipal Corporation to

dispose of the complaint of the petitioners in accordance with law, upon hearing the parties and upon passing a reasoned order. The respondent nos.6 to 9 are directed to file an answer to the show-cause notice issued by the Corporation within a period of two weeks from date. A hearing shall be given by the competent authorities of the Licence Department, Borough XII, Jadavpur Unit to all the parties. A reasoned order shall be passed and communicated to the parties.

This Court has not gone into the merits of the claims and counter-claims of the parties and the entire issue shall be decided by the Corporation, within two months from receipt of the answer of the respondent Nos.6 to 9.

There shall be no order as to costs.

All parties are to act on the basis of server copy of this order.

(Shampa Sarkar, J.)