

26.08.2022
Item No.4
Court No.6.
S. De

M.A.T. 1393 of 2021
I.A. No. CAN 1 of 2021

Kaushalya Rani Charity Trust.
Vs
The Kolkata Municipal Corporation & Ors.

Mr. Supriyo Chattopadhyay,
...for the appellant.
Mr. Farhaduddin,
Mr. Falguni Lahiri,
...for the respondent no.8.
Mr. Ranajit Chatterjee,
Mrs. Tanusree Dasgupta,
...for the K.M.C.

By consent of the parties, the appeal and the application are taken up together for hearing.

A judgment and order dated November 9, 2021, whereby W.P.A. 6422 of 2021 was disposed of, is under challenge in this appeal.

It appears that appellant/writ petitioner is the owner of premises no. 7/1A, Acharya Jagadish Chandra Bose Road, Kolkata. The ground floor of the said premises has been let out to various tenants. According to the appellant, earlier two businesses under the name and style of "Feng Shui" and "Family" were being run from a portion of the ground floor. It is the grievance of the appellant that those businesses have been stopped and the concerned premises are being now used to run Eating Houses. Certificates of

Enlistment appear to have been obtained by the proprietors of such Eating Houses. The consent of the appellant who is the landlord was not obtained. According to the appellant, the landlord's consent or "No Objection" is necessary for obtaining Trade License/Certificate of Enlistment.

Mr. Chatterjee appearing for the Corporation disputes the above proposition. We need not go into the above controversy.

The appellant urges various factual points, which are disputed by the respondents, which cannot be conveniently and effectively adjudicated by a writ Court. The learned Single Judge has observed in the order impugned that if it is found that the private respondents are carrying on businesses illegally without obtaining due permission from the Corporation and other authorities, the appellant/writ petitioner shall always be at liberty to raise such issues before the Corporation in accordance with law.

We are also told that a civil suit is pending between the appellant and the private respondents wherein the appellant has claimed a decree for evicting the private respondents from the premises they are occupying. This order shall have absolutely no bearing on such civil suit.

The grievance that the appellant/writ petitioner has sought to ventilate in the present writ proceedings,

in our opinion, can be more effectively and conveniently adjudicated before a civil forum and the appellant will be at liberty to approach the appropriate forum for ventilating his grievances in accordance with law. We have not entered into the merits of the appellant's grievances. If the appellant/writ petitioner approaches any other competent forum in accordance with law, such forum is requested to decide the appellant's case on merits without being influenced by anything at all in the present order or the order of the learned Single Judge.

Since we have not called for affidavits, the allegations contained in the application are deemed not be admitted by the respondents.

The appeal being MAT 1393 of 2021 is, accordingly, disposed of along with the application being CAN 1 of 2021.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Rai Chattopadhyay, J.)

(Arijit Banerjee, J.)