

WPO No. 46 of 2020
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

IN THE MATTER OF:
GOODWILL & CO. & ORS.
VS.
KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date : November 16, 2022.

Appearance:
Mr. Surya Prasad Chattopadhyay, Adv.
Mr. Arjun Samanta, Adv.
...for the petitioners

Mr. Saptarshi Kumar Mal, Adv.
...for the respondent no.7

Mr. Abhishek Halder, Adv.
Mr. Souvick Mitra, Adv.
Mr. Swadesh Misra, Adv.
Ms. Madhurima Basu, Adv.
...for the respondent no.8

Ms. Koily Bhattacharya, Adv.
Mr. Monojit Pal, Adv.
...for the K. M. C.

The Court: The prayer of the petitioners for issuing the licence in the name of Goodwill and Co. specifying the name of the petitioners in respect of the Stall Nos. 34 and 35, Block No.WR (O) (Old Complex), S. S. Hogg Market is pending consideration at the end of the Kolkata Municipal Corporation.

It appears that licence was issued in the names of Anubala Sen, Ramkrishna Sen and Krishna Sen. All three of the above licensees have expired.

The petitioners are the heirs of one of the deceased licensees. The private respondents are the heirs of the other deceased licensees.

The petitioners and the respondent no.7, Pranab Kumar Sen, does not have any objection if the names of all the heirs and representatives of the deceased licensees are mentioned in the licence and mutation granted jointly in favour of all the heirs.

Respondent No.8, Prasanta Sen, one of the sons of late Ramkrishna Sen, is not agreeable to the said proposal. According to the respondent no.8, it is for the Corporation to take into account as to whether the partnership business is being run in accordance with the partnership deed.

It has been submitted that the petitioners have flouted the condition of the licence and accordingly, the same ought not to be issued in the name of the petitioners.

The purpose of mutation is only for fixing the liability of the person liable to pay tax. The business in question is being run from the said premises for quite some time. There may be private disputes in between the parties. The said disputes are not to be decided or adjudicated by the Corporation for issuance of fresh licence or for mutating the stalls in favour of the heirs of the deceased licensees/stall holders.

In view of the above, the instant writ petition is disposed of by directing the competent officer of the Kolkata Municipal Corporation to take a decision with regard to the prayer of the petitioners for issuing the licence in favour of all the

heirs of the deceased licensees and to mutate the stall nos. 34 and 35 jointly in favour of the heirs of the deceased stall holders.

A decision shall be taken in the matter in accordance with law after giving an opportunity of hearing to all the heirs of the deceased stall holders at the earliest, but positively within a period of twelve weeks from the date of communication of this order. A reasoned order shall be passed and communicated to the parties immediately thereafter.

Learned advocate appearing for the respective parties will be at liberty to forward relevant documents in support of their claim to the respondent authority for deciding the issue.

It will be open for the parties to agitate their private disputes as regards partnership, books of accounts etc. before the appropriate forum, if so advised.

The Kolkata Municipal Corporation shall not be obliged to decide any of the private disputes of the parties. The Corporation shall decide the issue relying on the documents that are made available to the officer prior to the date of hearing.

The order of status quo that is continuing in the matter shall continue till the matter is finally decided by the Kolkata Municipal Corporation.

Writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon completion of usual legal formalities.

(AMRITA SINHA, J.)