

OD-3

APOT 30 of 2022
IA No.GA 1 of 2022
with
WPO 949 of 2021
IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

SOMA BANERJEE
Vs.
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:
The Hon'ble JUSTICE ARIJIT BANERJEE
AND
The Hon'ble JUSTICE KAUSIK CHANDA
Date : March 1, 2022.

Appearance:
Mr.Rajeev Kr. Jain , Advocate
Mr. Sandip Kr. De, Advocate,
Mr. Arabinda Sen, Advocate,
Mr. Abhijit Sarkar, Advocate
Mr. A. C. Kundu, Adv.
for the appellant.

Mr. Achintya Kr. Banerjee, Advocate.
Ms. Manisha Nath, Advocate.
. . . . for KMC.
Mr. Aniruddha Chatterjee, Advocate
Mr. Priyankar Saha, Advocate,
Mr. Aditya Mandal, Advocate
Ms. A. Chakroborty, Advocate
. . . for respondent no.4.
Mr. Suman Kr. Dutt, Advocate
Mr. Niladri Khanra, Advocate
Mr. Jit Ray, Advocate
. . . for respondent no.5 to 8

Mr. Debmalya Ghoshal, Adv.
Mr. Souvik Ghosh, Adv.
. . . for respondent no.9.

The Court : This appeal has been preferred against an order dated January 18, 2022 whereby the learned Single Judge declined to grant interim protection to the writ petitioner, as prayed for.

The writ petitioner, who is the appellant before us, claims to be the wife of one Rajib Deb, who passed away in the year 2015. Prior to his death, he

was running guest house and restaurant business in co-partnership with the respondent no.5 before us. It appears that the Certificate of Enlistment for running such business was issued by the Kolkata Municipal Corporation (KMC) in the joint names of the said Rajib Deb and his business partner.

The appellant alleges that by adopting dubious means, upon the death of Rajib Deb, the respondent no.4, who is Rajib's daughter from his first marriage, got Rajib's name deleted from the Certificate of Enlistment and her name included in place and stead thereof. The appellant says that she had made a representation to the KMC authorities with the request to delete the name of the respondent no.4 from the Certificate of Enlistment and include the name of the estate of Rajib Deb, since deceased. Such representation was rejected by the concerned KMC Officer. The rejection order is under challenge before the learned Single Judge in the present writ petition.

Learned Advocate for the respondent no.4 says that her name was included in the certificate of enlistment in the year 2015. Seven years have passed by.

In view of the name of the respondent no.4 having been included in the Certificate of Enlistment 7 years ago, we are not inclined to interfere at this interim stage. We are of the view that the learned Single Judge should decide the matter at the first instance on affidavits. The learned Judge had given direction for filing affidavits. We are told that the time for exchange of affidavits has been extended by the learned Judge.

Let affidavits be exchanged between the parties. The KMC shall disclose in its affidavit, the basis on which the name of the respondent no.4 and/or

other respondents was included, in the Certificate of Enlistment. The parties may request the learned Judge to give some precedence to the matter to the extent the business of the Court may permit.

Without going into the merits of the cases of the respective parties, we dispose of the appeal and the connected application on the above terms.

(ARIJIT BANERJEE, J.)

(KAUSIK CHANDA, J.)