

APO/111/2022  
with  
WPO/46/2020  
IA NO:GA/1/2022

IN THE HIGH COURT AT CALCUTTA  
Civil Appellate Jurisdiction  
ORIGINAL SIDE

PRASANTA SEN  
Vs.  
GOOD WILL AND CO. & ORS.

BEFORE:  
The Hon'ble JUSTICE ARIJIT BANERJEE  
AND  
The Hon'ble JUSTICE APURBA SINHA RAY  
Date : 19<sup>TH</sup> DECEMBER, 2022.

Appearance:

*Mr. Abhishek Halder, Advocate*  
*Mr. Swadesh Misra, Advocate*  
*Mr. Souvik Mitra, Advocate*  
*Mr. Nirayan Roy, Advocate*  
*Ms. Madhurima Basu, Advocate*  
*...for appellant*

*Mr. Surya Prasad Chottapadhyay, Advocate*  
*Mr. Arjun Samanta, Advocate*  
*...for respondent/ writ petitioner*

*Mr. Saptarshi Kr. Mal, Advocate*  
*...for respondent no.10*

The Court : By consent of the parties, the appeal and the application are taken up for hearing.

A judgement and order dated November 16, 2022, whereby a learned Single Judge disposed of WPO/46/2020, is the subject matter of challenge in this appeal.

It appears that the writ petitioners, who are respondents in this appeal, run a business in two shops in what is popularly known as New Market. Initially, a licence was granted under the 1950 Act to run the shops in favour of one Kanai Lal Sen. Upon his demise, licence was issued in the names of Anubala Sen, being the wife of Kanai Lal Sen and Ramkrishna Sen and Krishna Sen, being the two sons of Kanai Lal Sen. All the said three persons have passed away. The writ petitioners and the present appellant, who was added as the respondents in the writ petition as also the private respondent No.10 are legal heirs of the aforesaid three persons. The grievance with which the writ petitioners approached the learned Single Judge was that an application for issuance of licence in the name of Goodwill & Co. specifying the names of the writ petitioners in respect of the concerned shop rooms in New Market, is pending and has not been considered by the Kolkata Municipal Corporation (in short "KMC").

Initially, the present appellant was not impleaded as a party. An order of status quo with regard to possession of the concerned shop rooms was passed by a learned Single Judge on April 12, 2022. The present appellant as well as the respondent no.10 were subsequently added as party-respondents in the writ petition by an order of May 10, 2022.

The appellant herein objected to the licence being issued in favour of all the legal heirs of the appellant, writ petitioners and the respondent no.10.

According to him, terms and conditions of the licence have been breached and hence, the licence should not be issued in the names of the writ petitioners. The learned Judge noted that obviously there are private disputes between the parties which they will be at liberty to resolve before the appropriate civil forum. The business concerned is being carried on for quite some time. The learned Judge directed the Corporation to dispose of the application of the writ petitioners by passing a reasoned order after hearing all concerned parties. Being aggrieved, the private respondent no.8 in the writ petition has come up in appeal before us.

We have heard learned counsel for the parties. We really fail to see what legitimate grievance the appellant could have. If the licence is issued by the Corporation in favour of all the legal heirs of deceased licencees including the present appellant, the appellant cannot have any valid grievance. In any event, the learned Judge has left it to the Corporation to decide the issue of grant of licence. The appellant has the opportunity of participating in the proceedings before the Corporation. We see absolutely no reason to interfere with the order under appeal.

However, learned advocate for the appellant says that the order of status quo has been continued by the learned Judge till the matter is finally decided by the KMC. If the appellant approaches the civil forum as regards

the disputes he has with regard to the partnership firm and possession of the shop rooms, the order of status quo may stare at his face.

We direct the Corporation to conclude the proceedings before it by passing a reasoned order within two weeks after Christmas vacation i.e. 16.01.2023, after affording opportunity of hearing to all concerned parties.

We clarify that the order of status quo, which has been continued by the learned Single Judge, will operate only till the date of passing of a reasoned order by the Corporation. If after that the appellant approaches any civil forum, the order of status quo will have no bearing on the proceedings.

The appeal and the connected application are accordingly disposed of.

Since we have not called for affidavits, allegations made in the application are deemed not to have been admitted by the appellants.

(ARIJIT BANERJEE, J.)

(APURBA SINHA RAY, J.)