

Item No.57

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

12.04.2023
Ct-24

WPA 2883 of 2023
Jayanta Kumar Basu

v.

The State of West Bengal & Ors.

Mr. Arnab Roy
Mr. Satyam Mukherjee
Ms. Sayani Ahmed
... for the petitioner.

Mr. Subha Brata Datta
Mr. Bani Brata Datta
... for the State.

Md. Sarwar Jahan
Md. Zahim
Mr. Asif Mehdi
Mr. S. N. Thander
... for the respondent no. 10.

Mr. Sirsanya Bandopadhyay
Mr. Tirthankar Dey
Mr. Arka Kumar Nag
Mr. Souvik Naiya
... for BMC.

The petitioner prays for cancellation of the Certificate of Enlistment granted in favour of the private respondents.

Learned advocate for the petitioner submits that the private respondents are rank trespassers in the property and trade licence ought not to have been issued in their favour without expressed consent of the petitioner, who is the landlord.

A second appeal in connection with the suit for eviction of the unauthorized occupants is pending consideration.

Learned advocate for the petitioner, however, admits that the private respondents are in possession of the subject property.

Reliance has been placed on a note published by the Bidhannagar Municipal Corporation (License Department) wherein a check list has been published for submission of documents for obtaining the Certificate of Enlistment.

The petitioner contends that a minimum opportunity of hearing ought to have been afforded to the petitioner prior to issuance of the Certificate of Enlistment.

Learned advocate representing the respondent no. 10 submits, upon instruction that, license was issued in favour of the respondent no. 10 by the Urban Development Department upon submission of documents to show that the said respondent is in possession of the place from where the business will be operated.

Learned advocate representing the Bidhannagar Municipal Corporation submits, upon instruction that, according to the prevailing rules application for obtaining trade licence is required to be submitted online along with the specified documents. The application is dealt with by the Urban development department and the Municipal Corporation does not have any role to play in the matter.

It appears from the submissions made on behalf of all the parties that the trade license has been issued in

favour of the private respondent no. 10 on the basis of documents submitted by him.

According to the provisions of law there is no requirement to prove title or ownership or even tenancy right for the purpose of obtaining the Certificate of Enlistment. As long as the applicant is in possession of the place from where the business will be run, the authority is bound to issue trade licence till the said person is evicted from the said place in accordance with law. The consent of the landlord is immaterial.

Trade license has duly been issued in favour of the private respondent no. 10.

The writ court does not find any reason to exercise discretion and interfere in the matter.

The writ petition fails and is hereby dismissed.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

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(Amrita Sinha, J.)