

D/L. 11.
July 19, 2023.
MNS.

WPA No. 15666 of 2023

M/s. Subrata Ghosh & Co. and another
Vs.
Registrar of Societies, Firms and Non-
Trading Corporations and others

Mr. Debasish Kundu,
Mr. R. N. Barik,
Mr. Amitayu Kundu

... for the petitioners.

Learned counsel for the petitioners submits that the petitioners applied for registration of a partnership firm. Although, initially, the unregistered partnership firm comprised of several partners, subsequently, on the retirement of the said partners, excepting petitioner no. 2, the present petitioners have become the existing partners of the firm.

However, when the petitioners approached the Registrar of Societies, Firms and Non-Trading Corporations, for registration of the said alteration in the erstwhile partnership firm, the Registrar insisted upon prior production of Aadhaar Cards and PAN Cards of the erstwhile partnership and partners for the purpose of granting such registration.

It is submitted that, despite the best efforts, the petitioners could not ensure the production of such copies and/or elicit any response from the erstwhile partners. In any event, it is submitted that the Aadhaar Cards and PAN Cards and other documents of the erstwhile partners are no longer required, in view of the production of the subsequent deed of retirement/admission as well as all other relevant documents by the present petitioners.

It is also submitted that the Registrar, if he so feels, can issue notice on the erstwhile partners prior to granting such registration.

However, the inaction of the Registrar on the application for registration made by the petitioners is unjustified and *de hors* the law.

Despite substantial service having been effected, none appears for the respondents. Affidavit-of-service and supplementary affidavit filed in Court today be kept on record, which indicate clearly that all attempts were made to serve copies of the writ petition on the respondents and service has been effected at the same address for all the respondent-erstwhile partners. Hence, the writ petition is taken up for final disposal.

A perusal of the documents annexed to the writ petition and the supplementary affidavit clearly indicate that sufficient documents have been produced by the petitioners to *prima facie* establish that the original partnership firm, which was unregistered, has since undergone an alteration, more so, in view of retirement of the erstwhile partners of the original partnership firm, excepting petitioner no. 2.

Since the retirement deed as well as all other relevant documents are produced by the petitioners, further insistence of the Registrar of Societies, Firms and Non-Trading on production of Aadhaar Cards and PAN Cards of the erstwhile partners, excepting petitioner no. 2, is unjustified and baseless.

Learned senior counsel for the petitioners is justified in contending that if there is any doubt in the mind of the Registrar, the Registrar may very well issue prior notices to the erstwhile partners, excepting petitioner no. 2 before granting the registration as sought for by the petitioners.

However, the Registrar is duty bound in law to dispose of the application for registration made by the petitioners expeditiously.

In view of the above, WPA No. 15666 of 2023 is allowed, thereby directing the Registrar of Societies, Firms and Non-Trading Corporation, West Bengal, to decide on the application for registration made by the petitioners with regard to their partnership firm, namely, M/s. Subrata Ghosh & Co., which application is annexed to the present writ petition as well, as expeditiously as possible and in accordance with law, upon giving opportunity to the petitioners to produce all relevant documents in that regard.

The respondent no. 1, that is, the Registrar of Societies, Firms and Non-Trading Corporations, West Bengal, shall, if so deemed fit, issue prior notice to the erstwhile partners, excepting petitioner no. 2, of the partnership firm.

Upon giving opportunity of hearing to all concerned and the opportunity to produce documents, as indicated above, and scrutinizing the said documents, the respondent no. 1 shall decide on the application for registration immediately thereafter.

Such exercise, it is expected, shall be positively completed within two months from the date of communication of this order to the respondent no. 1.

This Court has not gone into the merits and/or legality of the stand taken by the petitioners and it will be open to the Registrar to decide the application of the petitioners in accordance with law.

It is further clarified that in the event the petitioners are dissatisfied with the decision of the Registrar, it will be open to the petitioners to challenge such order before an appropriate legal forum.

There will be no order as to costs.

The parties shall act on a server copy of this order, without insisting upon prior production of a certified copy thereof.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)