

24-01-2023
Item No.164 ML
Subrata
Bhattacharyya

IN THE HIGH COURT AT CALCUTTA
Constitutional writ Jurisdiction
Appellate Side

WPA No.18162 of 2021
Amitava Rakshit
-vs-
The State of West Bengal & Ors.

Mr. M.S. Mondal
Mr. Afrin Nahar Mondal ...for the petitioner

Mr. Sumon Basu ...for the Corporation

Mr. Dibashis Basu
Mr. Arun Bandyopadhyay ...for respondents no.6 & 7

The petitioner is aggrieved by the inaction on the part of the Chandernagore Municipal Corporation in not taking steps in proper time in response to the representation filed by him objecting to the issuance of the license/certificate of enlistment in favour of the private respondents.

The petitioner claims to be the owner of the property in question and the private respondents are his tenants. The petitioner alleges that the private respondents were inducted as tenants of the subject premises for running a business under the name and style of 'Saree Ghar'. The private respondents have, thereafter, changed their business and are presently carrying on business of ice cream parlour after obtaining the trade license from the Corporation.

The petitioner alleges that permission of the landlord was not taken prior to the change of business by the private respondents.

Learned advocate representing the tenants refers to

the objection filed by the petitioner before the Chandernagore Municipal Corporation.

It has been submitted on behalf of the private respondents that in the said representation the petitioner clearly mentions that there has been violation of the provisions of the Tenancy Act. It has been further submitted that the violation of the provisions of the Tenancy Act, cannot be adjudicated by the writ court.

Learned advocate representing the Corporation submits, upon instructions, that the certificate of enlistment/trade license was issued online in favour of the private respondents prior to the objection being raised by the petitioner.

According to the provision of law, permission of the landlord is not required prior to obtaining any certificate of enlistment/trade license from the license granting authority, provided the nature of business is not an illegal one.

In the present case, the Corporation considered the application made by the private respondents online for obtaining the trade license/certificate of enlistment and thereafter issued the same in favour of the private respondents.

The landlord may be aggrieved with the act of the tenants in changing the nature of business. There may be genuine private disputes in between the parties. Neither the writ court nor the Chandernagore Municipal Corporation will be the appropriate authority to decide or adjudicate the private disputes of the parties.

Accordingly, the present writ petition is disposed of granting liberty to the petitioner to approach the appropriate

forum for redressal of his grievance, if so advised. No further relief can be granted to the petitioner in the present writ petition.

The writ petition is thus disposed of. No order as to costs.

Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]