

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

The Hon'ble **JUSTICE BIBEK CHAUDHURI**

WPA/18585/2023

Jamil Ahmed

-Vs-

The State of West Bengal & Ors.

For the Petitioner: Mr. Debasis Sur, Adv.,
 Mr. Angsuman Patra, Adv.

For the Respondent No.3: Mr. Biswanath Chakrabarti, Adv.,
 Mr. Krishnendu Bera, Adv.,
 Ms. Deblina Chakraborty, Adv.

For the State:- Mr. Ayan Banerjee, Adv.,
 Ms. Debasree Dhamali, Adv.

Heard on: 17 August, 2023.

Judgment on: 17 August, 2023.

BIBEK CHAUDHURI, J. : –

1. It is the case of the petitioner that he along with private respondent No.3 are the joint owners of Rationing Shop No.FPS-B/17 situated in holding No.272 at Dharampur within Post Office Burnpur, in the district of Paschim Bardhaman. The said premises are jointly owned by the petitioner and the respondent No.3. In view of property dispute between the petitioner and the respondent No.3 no trade licence/rationing licence was issued in favour of the respondent No.3 since 2015. In order to regularize the trade licence/rationing licence, the private respondent very

cleverly and tactfully applied for changing the venue of business from holding No.272 to 106/A/271 which is also jointly owned dwelling house of both the petitioner and respondent No.3. Suppressing the fact, the private respondent has submitted that Premises No.106/A/271 is exclusively owned and possessed by him. It is also stated by the petitioner that the private respondent has been appointed receiver by a competent civil court in respect of the business and joint family property being holding No.272 by virtue of an order dated 20th July, 2013. It is alleged by the petitioner that in violation of the aforesaid order, the state respondents have been acting as per their whims and caprice and allowing the private respondent to draw rationing commodities though he does not possess any valid rationing licence since 2015. It is also contended on behalf of the petitioner that no rationing licence was also issued in the name of the private respondent No.3 at premises No.106/A-271, Dharampur within P.S Burnpur.

2. Having heard the learned Advocates for the petitioner and the private respondent No.3 it appears that the petitioner and private respondent No.3 are two brothers. They inherited some property jointly from their predecessor-in-interest. A civil suit is pending in respect of the said joint property. In the said suit the respondent No.3 has been appointed as a receiver. From the allegation made in the instant writ petition, it is ascertained that since the ration shop was running in the joint property of the petitioner and respondent No.3, the petitioner is of the view that the fair price shop is being run jointly by the petitioner and

the respondent No.3. In other words, the petitioner has the equal share in the business of fair price shop with respondent No.3.

3. The instant writ petition is absolutely misconceived. A licence of dealership of fair price shop can only be granted in the name of more than one person when the same is granted in the name of a partnership firm or Self-Help Group or Samabay Samity etc. In the instant case licence was granted in exclusive name of the respondent No.3. Over the said business of fair price shop the petitioner has no right, title and interest since the licence was not issued in his name.

4. It is submitted by the learned Advocate for the private respondent that previously the ration shop was being run from holding No.272, Dharampur which is a joint family property. When the dispute cropped up regarding the running of business by respondent No.3 in the joint property, he changed the address of the building in holding No.106/A/271 which is absolutely his own property.

5. In view of the fact that no licence was granted in favour of the petitioner, he cannot claim any right over the rationing business.

6. Accordingly, the instant writ petition being devoid of any merit is summarily dismissed.

7. There shall however, be no order as to cost.

(Bibek Chaudhuri, J.)