

Item No.6

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

13.10.2023
Ct-24

WPA 24336 of 2023
Dr. Kausik Kundu

v.

Arambagh Municipality & Ors.

Mr. Ranajit Chatterjee
Mr. D. R. Mukherjee
Mr. Arijit Dey
... for the petitioner.

Mr. Ajay Debnath
Mr. Asit Kumar De
Mr. Devranjan Das
Mr. Upamanyu Mukherjee
... for the respondent no. 3.

Mr. Suddhadev Adak
Ms. Arpita Mondal
... for the Municipality.

The petitioner is aggrieved by the act on the part of the Arambagh Municipality in not renewing the certificate of enlistment allegedly on the ground of an objection put in by the co-owner of the premises. The petitioner submits that the business is in question is running from the said premises for nearly the last 20 years.

According to the private respondent, the property in question is an un-partitioned one. The petitioner ought to have obtained the consent of the private respondent prior to applying for renewal of the trade licence.

According to the private respondent, the property was joint when their father was alive but after his death the property is required to be partitioned.

Upon hearing the parties and upon perusal of the materials on record it appears that the licence in question was valid till March 31, 2023. The business place is a diagnostic centre where medical tests are being conducted.

The petitioner has obtained permission and sanction from other competent authorities for running the said business. Only for want of the trade licence/certificate of enlistment, the petitioner cannot run the business.

According to the provisions of law, certificate of enlistment ought not to be refused as long as the person concerned is in possession of the premises from where the business is being run. There is no requirement of obtaining a formal no objection certificate or consent from the co-owner.

If the co-owner obtains an order from the competent forum declaring the shares and thereafter demarcation of the joint property, then the co-owner can take steps for evicting the petitioner and thereafter take possession of the same. Till such step is taken and as long as the petitioner remains in possession of the place from where the business is conducted, the Municipality is liable to renew the certificate of enlistment.

In view of the above, the writ petition stands disposed of by directing the Arambagh Municipality to take immediate steps for renewal of the certificate of enlistment subject to payment of necessary charges and upon compliance of all necessary formalities at the

earliest but positively within a fortnight from the date of communication of this order.

It is made clear that running business from the said portion of the premises will not create any right or equity in favour of the petitioner.

The writ petition stands disposed of.

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.)