

Item No.13

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

10.02.2023
Ct-24

WPA 27398 of 2022
Debasis Ray & Anr.

v.

The State of West Bengal & Ors.

Mr. Nilanjan Bhattacharjee
Mr. Arpan Guha
Mr. Abhilash Chatterjee
Mr. Saikat Dey
... for the petitioners.

Mr. Srijan Nayak
Ms. Rituparna Maitra
... for the State.

The order dated November 24, 2022 passed by the Chairman, Habra Municipality rejecting the prayer of the petitioner for renewal of trade licence is under challenge in the present writ petition.

The impugned order mentions that as the matter relating to ownership of the land in question is disputed and pending before the Hon'ble Court, the Municipality is reluctant to pass any order of issuance of a trade licence at present.

None appears on behalf of the Municipality despite repeated services.

Learned advocate representing the State respondents is yet to receive any instruction in the matter.

The issue relating to renewal of trade licence has been set at rest by several pronouncements of this Court.

It has been held that for the purpose of renewal of trade licence, the status of the parties and the question of title is not required to be gone into. The authority should only enquire as to whether the party concerned is carrying on business from the particular address.

In the present case, the petitioner is running a nursing home from the subject address for a considerable period of time.

The issue of ownership as raised by the Municipality has not yet been decided by the Court. Pendency of the said issue ought not to stand in the way of the Municipality to renew the trade license in the favour of the petitioner if the petitioner is found to be in occupation of the property and is running business therefrom.

At this stage it will not be proper for the Municipality to refuse renewal of the trade license to the petitioner.

In view of the above, the impugned order dated November 24, 2022 is set aside.

The Municipality is directed to take steps for reconsideration of the prayer of the petitioner for grant of trade licence only upon enquiry as to whether the petitioner is running the business from the subject address.

The petitioner will, however, be obliged to obtain all other necessary licenses/permission required for running the nursing home.

A decision shall be taken by the Municipality at the earliest but positively within February 28, 2023.

A reasoned order shall be passed and communicated to the petitioner by March 3, 2023.

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.)