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Ct No 2023
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AGM

**In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

WPA 28686 of 2022

**Gayaram Patra
Vs
Kolkata Municipal Corporation & Ors.**

Mr. Saurav Chaudhuri

... For the petitioner.

Mr. Ranajit Chatterjee

Mr. Subrata Sikdar

... For the K.M.C.

Ms. Piyali Sengupta

Ms. Rupsha Chakraborty

... For the State.

Mr. Subrata Mukherjee

... for the respondent no. 5.

The allegation of the petitioner is that the private respondent is running a tea stall in such a manner that ingress and egress to his property is being blocked.

It is the further allegation that the tea stall is running from the outer wall of the petitioner's premises which the petitioner had purchased upon payment of valuable consideration.

Learned advocate representing the Kolkata Municipal Corporation has produced the instruction given by the Assistant Engineer (Civil), Building Department, Borough – I signed on 24th March, 2023, which mentions that premise no. 48, Tarasankar Sarani, Ward No. 005, Borough – I was inspected and it was found that a four storied building is there with two closed wooden doors situated side by side within the boundary premises. There are some other shop rooms in the front side of the

building. No new unauthorised construction has been found.

Learned advocate representing the private respondent submits that the said tea stall is being run for more than fifty years at the same place with the permission of the owner of the premises. The petitioner purchased the property very lately and is trying to evict the private respondent without due process of law.

From the photographs annexed at page 65 of the writ petition, it appears that the tea stall in question is situated on the verandah of the subject premises just by the side of the entrance of the petitioner's portion. The structure appears to be a temporary one.

It is for the owner and occupier of the subject premises to get rid of the tea stall in accordance with the provisions of law.

The Corporation will not be the appropriate authority to take steps for removal of the said tea stall which lies within the private land of the assessee.

In view of the above, no relief can be granted to the petitioner in the instant writ petition.

It will be open for the petitioner to take steps for removal of the tea stall before the appropriate forum in accordance with law, if so advised.

The writ petition stands disposed of.

The notice issued by the learned advocate for the petitioner to the respondents be retained with the records.

Urgent certified photocopy of this order, if applied

for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)