

16.07.2024
Court No.09
Item no.05
CP

WPA No. 8988 of 2023

Sudip Saha
vs.
The State of West Bengal & ors.

Mr. Jyoti Prakash Chatterjee
Mr. Muhammad Jawwad
.....for the petitioner.

Mr. Supriyo Chattopadhyay
Ms. Sayantanee Bhattacharjee
.....for the respondent nos. 3 &4.

Mr. Debjit Mukherjee
Ms. Susnita Chatterjee
... for the State.

Mr. Atanu Biswas
Mr. Mrinal Saha
.....for the respondent nos. 8 & 12.

The issue before this court is whether the petitioner can be allotted a shop room or a stall maintained and regulated by the Purba Bardhaman Zilla Regulated Market Committee. The petitioner's father was allotted the stall/shop room. Upon demise of the father, the petitioner prayed for allotment of stall in his favour. The petitioner submits that a 'no objection' from the sisters had been produced, but the mother and another brother who are the respondent nos. 12 and 8 refused to grant such 'no objection'. It is also submitted that the petitioner had paid the arrear rents.

Mr. Biswas, learned advocate who appears on behalf of the respondent nos. 8 and 12, submits that the respondent No.8 had been paying the current rent and was running the shop.

The authorities have intimated the petitioner that unless the petitioner gets a 'no objection' from all the legal heirs of the deceased licensee, the licence in respect of the shop cannot be transferred to the name of the petitioner.

Having heard the learned advocate for the respective parties, this court finds that the regulated market committee is willing to allot the shop to the petitioner, provided the other heirs do not have any objection. It appears from the pleadings that apart from the respondent nos. 8 and 12, none other has any kind of objection.

It is not the case of the regulatory market committee that the licence cannot be transferred to the name of the heirs. In view of the dispute between the petitioner and the respondent no. 8, the allotment has not been made. This court finds that if the petitioner and the respondent no. 8 are able to satisfy the authorities that all the other surviving heirs of the deceased licensee had given their 'no objection' in the form of an affidavit, in that event the stall shall be transferred to the name of the respondent no. 8 and the petitioner. Such

allotment/grant of licence will be provisional. The transfer will be made upon compliance of all formalities by each of the parties. Both the allottees shall be liable to pay the rent in equal amount and run their business from the stall, without creating any unpleasantness.

The entire exercise shall be completed within a period of three months from the date the petitioner and the respondent no. 8 supplying the necessary documents. The authority shall reserve the right to cancel the provisional licence/allotment, if the parties indulge in any offensive activities or commit breach of peace.

The writ petition is accordingly disposed of.

There shall be no order as to costs.

All parties are to act on the basis of server copy of this order.

(Shampa Sarkar, J.)