

OD-5 & 20

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO No.198 of 2024

SAMIR KUMAR CHANDRA
VERSUS
KOLKATA MUNICIPAL CORPORATION & ORS.

WITH

WPO No.309 of 2024

DHIRODATTA PAUL
VERSUS
THE KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date: 10th April, 2024.

Appearance:

Mr. Ayan Kumar Boral, Adv.
...for the Petitioner.
[WPO/198/2024]

Mr. Tanoy Chakraborty, Adv.
Mr. Chhandak Dutta, Adv.
...for the Petitioner.
[WPO/309/2024]

Mr. Suddhadev Adak, Adv.
Ms. Arpita Mondal, Adv.
....for the State.
[WPO/198/2024]

Mr. Gopal Chandra Das, Adv.
Mr. Rudranil De, Adv.
....for KMC.
[WPO/198/2024 & WPO/309/2024]

Mr. Tanoy Chakraborty, Adv.
Mr. Chhandak Dutta, Adv.
..for Respondent No.11.
[WPO/198/2024]

Mr. Ayan Kumar Boral, Adv.
..for Respondent No.5
[WPO/309/2024]

The Court:- The matter relates to the premises no.17A, Nimu
Goswami Lane, Kolkata-700005.

The petitioner in WP No. 198 of 2024 alleges that despite the trade licence of the private respondent being cancelled by the Licence Officer, the said respondent is continuing with the business of manufacturing of rexine shoes at the subject premises. Objection was filed before the respondent authorities in February, 2024. The same is alleged to be kept pending.

Learned advocate representing the private respondent in the said writ petition submits that after the licence was cancelled, the private respondent stopped the business and is not carrying on business in the said premises at present. It has, however, been admitted that the goods and materials are stored at the subject premises as the said respondent has a valid licence to use the said premises as godown.

The petitioner in WP No. 309 of 2024 is aggrieved by the order of cancellation of the trade licence. It has been submitted that the premises is being used in accordance with the licence issued by the Corporation and after obtaining necessary permission from the West Bengal Pollution Control Board.

It has been submitted that the structure in question is not located on a major road and as such provision of Section 435A of the KMC Act, 1980 would not be applicable in the facts and circumstances of the present case.

The petitioner relies upon the certificate of enlistment permitting the premises to be used as a godown for non food items and specifically for warehouse/store of shoes and accessories.

A report has been filed by the Licence Inspector and the Deputy Licence Officer, Ward No.20, wherefrom it appears that an inspection was carried out to ascertain as to whether the business activity is taking place at the subject premises. It revealed that a cutting and punching machine, cut pieces of shoe soles and a few materials in sacks were found in the room but it could not be ascertained readily as to whether the business is being carried out or not.

Learned advocate representing Dhirodatta Paul submits, upon instruction that, in view of the order of injunction passed by the learned Civil Court the petitioner is not in a position to run the business at present.

Upon hearing the parties and upon perusal of the materials on record, it is evident that the licence for running the business has been cancelled. The premises is recorded for residential use in the records maintained by the Kolkata Municipal Corporation. A certificate of enlistment for using the premises as godown is still valid.

As there is no change of user of the subject premises, accordingly, the premises shall not be used for running business, more so, because the certificate of enlistment for running the business has been cancelled.

The Licence Officer is directed to take a decision as to whether storage of commercial goods may be permitted at a place which is meant for domestic use. Decision shall be taken after giving reasonable opportunity of hearing to all the necessary parties to produce documents in support of their respective claims at the earliest, but positively within a period of four months from the date of communication of this order.

Both the writ petitions are disposed of.

Affidavit of service filed in Court today is taken on record.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all legal formalities.

(AMRITA SINHA, J.)

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