

OD-10

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APOT/68/2024
WITH
WPO/325/2024
IA NO: GA/1/2024

SYED MD. SHAHID QUASIMUDDIN
VS.
KOLKATA MUNICIPAL CORPORATION & ORS.

BEFORE :

THE HON'BLE JUSTICE JOYMALYA BAGCHI
And
THE HON'BLE JUSTICE GAURANG KANTH
Date : 25th June, 2024

Appearance :

Mr. Probal Kr. Mukherjee, Sr. Adv.
Mr. Aniruddha Chatterjee, Adv.
Ms. Syed Khafiz Zammar, Adv.
...for appellant.

Mr. Gopal Chandra Das, Adv.
Ms. Manisha Nath, Adv.
..for KMC.

Mr. Pradyut Kr. Nandi, Adv.
Ms. Subhra De, Adv.
...for respondent no.10

Mr. Debjit Mukherjee, Adv.
Ms. Susmita Chatterjee, Adv.
...for State

Mr. Santanu Kr. Mitra, Adv.
Mr. Amartya Pal, Adv.
...for respondent no.8

The Court :- The appellant/writ petitioner had approached the Hon'ble Single Judge, inter alia, praying for restraining the private respondent from running a restaurant named and styled as 'M/s. Baig Shahab Restaurant' in the ground floor of the premises concerned. After hearing the parties the Hon'ble Single Judge directed the respondent authorities to consider the objection of the appellant/petitioner at pages 27 to 29 of the petition.

Mr. Mukherjee, learned senior Advocate for the appellant contends that the representation of the petitioner dated 6th December, 2023 at pages 33 to 35 of the writ petition may also be considered. Learned Counsel for the private respondent submits that the restaurant is running for the last 50 years and has all requisite permission. Learned Advocate for the respondent no.8 submits report.

We have considered the materials on record. By the impugned order the respondent Commissioner or his delegate was directed to consider the objection of the petitioner at pages 27 to 29 of the writ petition. It is contended, another representation dated 6th December, 2023 alleging unauthorized change of user may also be considered.

In view of the aforesaid submission, we direct as follows :-

The representation dated 6th December, 2023 at pages 30 to 33 of the writ petition along with other issues as directed by the Hon'ble Single Judge shall be considered by the Municipal Commissioner or his delegate as well as the Director General, Fire Prevention Wing within 8(eight) weeks from the date of communication of this order and the decision shall be communicated to the parties within one week thereafter.

We make it clear that we have not expressed any opinion with regard to the merits of the case.

The appeal is accordingly disposed of. All issues are kept open.

As affidavits have not been called for, allegations in the stay application shall not be deemed to be admitted.

(GAURANG KANTH, J.)

(JOYMALYA BAGCHI, J.)