

20.01.2025
Sl. No. 8
AKG
Ct. 15

WPA 13829 of 2024
Caesar Sen
-vs-
The Kolkata Municipal Corporation & Ors.

Mr. Rupak Ghosh, Mr. Ayan Dutta, Mr. Abhik Chitta Kundu	...for the Petitioner
Ms. Sipra Mazumder, Ms. Prativa Ghatak	
	...for the State
Ms. Tanushree Dasgupta, Ms. Paroma Sengupta	
	...for HMC

The petitioner submits that respondent no. 7 is his tenant, operating a restaurant business from the premises located at 66/1, Chowringhee Road, Kolkata - 700 020. The petitioner alleges that, although the relevant certificate of enlistment indicates that the area of the restaurant is less than 150 square feet, respondent no. 7 is operating the business from an area exceeding 300 square feet. The petitioner further submits that respondent no. 7 is operating the business without a fire certificate and without adhering to the pollution control norms.

In contrast, the learned advocate for respondent no. 7 submits that the respondent has obtained the necessary fire license and has complied with the relevant pollution norms.

The Corporation has filed a report before this Court, which provides a comprehensive overview of the disputes involved in the present writ petition. The relevant portion of the report is quoted as follows:

“It is to mention here that the area of M/s “Tibetan Delight” was changed from 100 Sq.ft. to 150 Sq.ft against the aforesaid CE No. by the CE holder through KMC website on 31/03/2023. They intend to change the area to about 300 sq. ft. as per the actual measurement. The nature of trade (fast food centre) for which the present CE has been taken is under area slab up to 150 Sq.ft. The next area slab for the same nature of trade is from 151 to 300 Sq.ft. However, being in a different slab it is treated as a separate nature of trade. Hence, change of area from 151 sq.ft. to 300 sq.ft. will cause change of nature of trade as well for which the existing CE No. need to be closed and a new CE shall be taken with a new enlistment number. In view of ongoing TS 964/2022 where the CE with area up to 150 sq.ft. has been produced to the hon’ble court, opinion of Law Dept. was obtained if change in the nature of trade for area up to 300 sq.ft. can be done or not. Law Dept. has opined to ask for the current status of the TS. A letter vide No. GHU/L-21/070/2024-25 dated 17.05.2024 has been issued to the M/s “Tibetan Delight” for a copy of the present status of the said TS.”

In light of the foregoing, I am not inclined to keep this writ petition pending. I direct the Corporation to determine the actual area of the business premises of respondent no. 7 by appointing a qualified officer to conduct an inspection. Following the inspection, the Corporation shall provide an opportunity for a hearing to both the petitioner and

respondent no. 7, accompanied by a copy of the inspection report.

If it is found that the business area of respondent no.7 requires a new certificate of enlistment, the Corporation shall pass necessary order in accordance with law. The entire process shall be completed by the Corporation within two months from the date of this order.

It is expressly clarified that this exercise shall not affect the pending Title Suit 964/2022 between the parties.

Accordingly, **WPA 13829 of 2024** is disposed of.

Urgent certified *website* copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)