

29.07.2025
Ct. No.3
Sl. No.1
akd

W. P. A. 25792 of 2023

[Sanghamitra Adhikary & Anr. -Vs- The State of West Bengal & Ors.]

Mr. Debasis Sur
Mr. Angsuman Patra
Mr. Mrinmoy Chatterjee
... ... for the petitioners

1. Affidavit-of-service filed in court today is taken on record.
2. The petitioners have preferred the present writ petition, being aggrieved by the action on the part of the respondent, Memari Municipality, in not including their names in the trade licence issued in favour of the partnership firm operating under the name and style of '*Monipuri Jewellers*', which is functioning from Holding No. 647/614, Ward No.7, under the jurisdiction of Memari Municipality.
3. It is the case of the petitioners that they are the wife and daughter respectively of late Goutam Adhikary, who was one of the founding partners of '*Monipuri Jewellers*', constituted through a partnership deed dated 21.01.2015, along with his brothers, namely, Tapas Adhikary and Pratap Adhikary. The said partnership deed, inter alia, contained a stipulation that the firm will not be dissolved upon the death, retirement or insolvency of any partner. It is submitted that Sh. Goutam Adhikary passed away on 09.06.2021, leaving behind the petitioners as his only legal heirs. Despite the firm continuing its business operation, after the demise of Goutam Adhikary, private respondent nos.5 and 6 have allegedly failed to either settle the estate/share of late Goutam Adhikary in the firm or induct the petitioners as partners in his place. Furthermore, the respondent, Memari

Municipality continues to issue the trade licence in the name of the said firm without including the names of the petitioners, thereby prejudicing their lawful rights.

4. Learned Advocate for the petitioners submits that a legal notice was sent on 21.07.2023 to the respondent, Memari Municipality, but no action has been taken by the said Municipality.

5. This Court has heard the arguments advanced by the learned Advocate for the petitioners and has perused the materials placed on record.

6. Upon examination, it appears that the core grievance of the petitioners pertains to the alleged failure of the surviving partners either to settle the estate/share of the deceased partner or to induct the petitioners into the firm in any capacity. However, such disputes relate to the internal affairs of the partnership firm and cannot be resolved by the municipal authorities. The issuance of trade licence by the Memari Municipality is based strictly on the partnership documents submitted before it. The said Municipality does not possess any statutory authority or legal obligation to unilaterally determine or alter the constitution of a partnership firm or adjudicate upon the rights of the parties *inter se*. Admittedly, the petitioners are not the signatories to the original partnership deed, and no revised deed has been placed on record reflecting their induction into the firm. In such circumstances, the respondent Memari Municipality cannot be faulted for not including their names in the trade licence. The reliefs sought by the petitioners would require adjudication of disputed question of facts concerning the rights of legal heirs, the continuation of partnership interest, and

settlement of accounts which fall outside the writ jurisdiction of this Court under article 226 of the Constitution of India.

7. In light of the above, this Court finds no infirmity or illegality in the action of the respondent, Memari Municipality. Consequently, no writ of mandamus can be issued directing the inclusion of the name of the petitioners in the trade licence issued by the Memari Municipality.

8. Accordingly, the present writ petition is dismissed, with liberty to the petitioners to avail appropriate remedies in accordance with law, for redressal of their grievances pertaining to succession, partnership interest and settlement of accounts with the private respondent nos.5 and 6.

9. Since no affidavits have been filed by the respondents, the allegations made in the writ petition shall not be deemed to have been admitted.

10. There shall be no order as to costs.

11. Let urgent Photostat certified copy of this order, if applied for, be supplied to the petitioners on usual undertaking.

(Gaurang Kanth, J.)