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21-01-2026

Ct. 19

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WPA 25295 of 2025
CAN 1 of 2025

Jhuma Mukherjee
Versus
The State of West Bengal & Ors.

With

WPA 27281 of 2025

Prateek Jain
Versus
The State of West Bengal & Ors.

Mr. Aniruddha Chatterjee, Sr. Adv.
Mr. Suddhasatva Banerjee
Mr. Shashwat Nayak
Mr. Rajeev Mantha
Mr. Ajit Keshari

...for the petitioner in WPA 25295/2025

For the respondent no.6 in WPA 27281/2025

Mr. Soumya Majumdar, Sr. Adv.
Mr. Siddhartha Banerjee
Ms Debjani Sengupta
Mr. Rajib Mullick
Ms. Divya Agarwal

...for the petitioner in WPA 27281/2025

For the private respondents in WPA 25295/2025

Mr. Vivekananda Bose
Mr. Priyamvada Singh

...for the State in WPA 25295/2025

Mr. Chandi Charan De, AGP
Ms. Chandana Ghosh

...for the State in WPA 27281/2025

Mr. Majumdar, learned Senior Counsel appearing for
the petitioner in WPA 27281 of 2025, prays for leave to file a
supplementary affidavit.

Such leave is granted.

The supplementary affidavit filed in Court is taken
on record.

A copy of the said supplementary affidavit has been
served upon the learned Advocates for the respective parties
in course of hearing of these petitions.

A plot of land being Plot No. 70 in Block AD, in

Sector-I, Salt Lake City, was leased out by an indenture of lease dated October 13, 1976 in favour of Biswanath Lahiri and Swapna Lahiri, both since deceased, by the Governor of West Bengal. By virtue of the last will and testament dated 18.03.2024 executed by the original lessees, the leasehold property was bequeathed in favour of two daughters of the original lessees.

The petitioner in WPA 27281 of 2025 claims that undivided 1/3rd share of leasehold right, title and interest of the land being plot no. 70, in Block AD, Sector-I, Salt Lake City, was assigned in his favour by virtue of a deed of assignment of lease dated 17th April, 2025 executed by and between Smt. Ruma Bhattacharya, one of the daughters of the original lessee, being the assignor and the Prateek Jain, the petitioner in WPA 27281 of 2025 as the assignee.

Alleging that Prateek Jain was carrying on a restaurant-cum-hukka bar in the ground floor of the premises, being AD-70, Sector-I, Salt Lake, a writ petition was filed being WPA 25295 of 2025. When WPA 25295 of 2025 came up for hearing on November 12, 2025, this Court directed the Land Manager, Department of Urban Development and Municipal Affairs, Government of West Bengal, to file a report stating in detail the steps taken by such authority pursuant to the complaint lodged by the petitioner in WPA 25295 of 2025. On 14th November, 2025, this Court, after considering the report filed by the third respondent in the said writ petition, passed an interim order to the following effect:

“There shall be an order of injunction restraining the respondent nos.4 to 6 from running any CAFÉ-cum-

Restaurant and/or as a Hookah Bar in the ground floor of the premises being AD-70, Sector-I, Salt Lake City, Kolkata 700064 till the end of the month of December, 2025 or until further orders whichever is earlier.

As prayed for by Mr. Mukherjee, learned senior advocate, the private respondents will be at liberty to file an affidavit-in-opposition on or before November 20, 2025 after serving an advance copy of the same to the learned advocate for the petitioner. Reply thereto, if any, be filed by 25th November, 2025 after serving an advance copy of the same to the learned advocate for the private respondent.

The Inspector-in-Charge, Bidhannagar North Police Station being the added respondent is directed to ensure compliance of this order as well as the directions passed by the Land Manager as indicated in the report filed in Court today.”

At this stage, it would be relevant to note that on 13th November, 2025, a show cause notice was issued to the petitioners of both the writ petitions directing them to show cause within the time limit indicated in the said notice as to why necessary action shall not be taken against them for violation of clause 2(10) of the Lease Deed read with clause 4 of the Lease Deed. The respective writ petitioners claim to have replied to the show cause notice dated November 13, 2025, but till date, no decision on such show cause notice has been taken by the concerned authority.

Mr. Dey, learned Additional Government Pleader, submits that since the writ petitions are pending before this Hon’ble Court, the respondent authorities did not take any further steps on the show cause notice issued by the Land Manager, Bidhannagar.

Mr. Majumdar, learned Senior Counsel appearing for the petitioner in WPA 27281 of 2025, places reliance upon various notifications issued by the Government of West Bengal, Urban Development Department dated April 5, 2010; August 22, 2014 and April 28, 2015 and submits that though initially, the Government decided to lease out the plots in Salt Lake City only for residential purpose but subsequently decided to allow such properties to be utilized for non-residential purposes also. By relying upon the said notifications, Mr. Majumdar would contend that the respondent authorities were under an obligation to permit the petitioner in WPA 27281 of 2025 to run the restaurant business from a portion of the property in question in the light of the policy decision taken by the Government.

Mr. Chatterjee, learned Senior Counsel appearing for the petitioner in WPA 25295 of 2025, submits that the plot in question was leased out only for residential purpose and without obtaining prior permission from the concerned authority, the said property or any portion thereof cannot be utilized for non-residential purpose(s).

The dispute is whether the property leased out can be used for non-residential purposes. One of the parties claim that such property can be utilized for non-residential purpose, while the other claims that non-residential user of the property is not permissible. Decision on such issue requires interpretation of the clauses in the lease deed and the effect of the notifications issued from time to time.

After going through the materials on record, this

Court finds that a show cause notice has been issued to the respective petitioners directing them to show cause as to why action against them shall not be taken for violation of clause 2(10) of the Lease Deed read with clause 4 of the Lease Deed. Since a show-cause notice has been issued alleging violation of certain terms of the lease deed; this Court feels that the respondent authority should be directed to take a decision of the issue raised in the show cause notice. It is also not in dispute that the respective petitioners have replied to the said show cause notice.

Since WPA 25295 of 2025 was filed alleging that the private respondent therein (petitioner in WPA 27281 of 2025) was using the property for running a restaurant-cum-hukka bar in violation of the terms and conditions of the Lease Deed and such fact is disputed by the petitioner in WPA 27281 of 20281, this Court refrains from making any observation on the issues raised in the respective writ petitions as the same might prejudice the rights of the respective parties before the concerned authority in the adjudication on the show cause notice dated 13th November, 2025.

At this stage, Mr. Majumdar, submits that the interim order passed by this Court is seriously affecting the livelihood of the petitioner in WPA 27281 of 2025 and the petitioner may be allowed to run the restaurant business from the property in question till the show cause issued by the Land Manager is adjudicated.

Such prayer is seriously opposed by Mr. Chatterjee.

This Court is not inclined to allow the prayer of Mr. Majumder pending adjudication on the show cause notice.

This Court is of the considered view, that the interest of justice would be sub-served if the concerned authority is directed to decide the show cause notice within a short span of time.

With the consent of the learned Advocates for the respective parties, the date of hearing before the Land Manager is fixed on January 29, 2026 at about 2 P.M.

Since the date and time of hearing is fixed by this Court in presence of the learned Advocates for the respective parties, the Land Manager would not be required to issue any further notice of hearing to the respective parties.

The Land Manager, Department of Urban Development and Municipal Affairs, Government of West Bengal, is directed to conduct a hearing on the show cause notice dated 13th November, 2025 on January 29, 2026 at the time mentioned hereinbefore and shall make an endeavour to conclude the hearing on that date itself. If for any reason whatsoever, the hearing cannot be completed by that date, the hearing shall be again taken up and completed by January 30, 2026.

The adjudication on show cause notice dated 13th November, 2025 shall be made by the Land Manager by passing a reasoned order after giving an opportunity of hearing to the respective writ petitioners or their authorized representatives. The reasoned order shall be communicated to the respective parties on or before February 6, 2026.

The interim order passed by this Court on November 14, 2025 shall remain in force till the communication of the reasoned order to be passed by the Land Manager, to the respective parties.

With the above observations, both the writ petitions and the connected application stand disposed of.

It is, however, made clear that this Court has not gone into the merits of the claims and counter claims made by the aforesaid parties in the respective writ petitions. All points are left open to be considered and decided by the Land Manager.

It is also, made clear that all the observations made in the order dated November 14, 2025 were only for the purpose of supporting the interim order passed by this Court and the Land Manager shall be free to decide the show-cause notice without being influenced by any of the observations made in the said order or any other orders passed in these writ petitions. No costs.

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

(Hiranmay Bhattacharyya, J.)