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ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APOT/49/2026
IA NO: GA/1/2026, GA/2/2026
MD. KHURSHID
VS
MUSTARI BEGUM AND ORS.

BEFORE:
The HON'BLE JUSTICE SHAMPA SARKAR
The HON'BLE JUSTICE AJAY KUMAR GUPTA
Date: 18th March, 2026.

Appearance:

Mr. Biswajit Muherjee, Adv.
Mr. Sounak Bhattacharyya, Adv.
Mr. S. Chakraborty, Adv.
Ms. Satabdi Das, Adv. ...for petitioner.

Mr. Joyok Kumar Gupta, Adv.
Mr. A. Rosul, Adv.
Mr. S. S. Biswas, Adv. ...for respondent.

Mr. Debjit Mukherjee, Adv.
Ms. Priyanka Jana, Adv. ...for State.

Mr. Avirup Chatterjee, Adv. ...for respondent nos.9 & 10.

The Court: The applicant claims to be affected by the interim order passed by the learned single Judge dated March 5, 2026 in WPO/811/2025. By the order impugned, the learned court directed the State to file an up-to-date status report as to the outcome of the proceedings initiated pursuant to the notice/FIR dated July 25, 2023. The report was directed to include steps taken by the police authority in relation to such FIR. The police authorities were further directed to ensure that no construction takes place at the locale.

The learned advocate for the writ petitioner submitted that, the private respondents were illegally carrying on business at the locale without any valid completion certificate.

Upon ascertaining from the learned advocate for the Municipality, it was found by His Lordship that no occupation certificate had been issued. Accordingly, the police authorities were directed to ensure that the premises remained unoccupied and no business was permitted to be carried on.

According to Mr. Mukherjee, the applicant who has filed the application for leave to appeal was not made a party in the proceeding. The order was passed behind the back of such party, who is running a shop with proper permission from the Corporation. The documents annexed to the stay application indicate so.

GA/1/2026 is an application for special leave to appeal from the order impugned before us.

Considering the documents annexed to the stay application and the averments, we are inclined to allow the application for leave to appeal. GA/1/2026 is allowed.

The police authorities have filed a report which indicates that the order of the High Court was duly communicated to the occupants of the premises but the occupants have been in possession since long and they are carrying on their own business. Thus, in our prima facie view, police cannot forcefully evict the occupants, neither can the police hold that the business was being carried on illegally because the Corporation had granted trade license and enlistment certificate. The matter requires further hearing before His lordship.

Mr. Gupta, learned advocate for the writ petitioner submits that writ petitioner is neither interested nor aggrieved by the activities of the appellant. The writ petitioner only wants allotment of his assured allocation, upon development of the building. Allegations are primarily against the owner of the premises and the developer. We make no comment, as His Lordship is in seisin of the matter. However, no further construction should be permitted

The Corporation is not present before us. Affidavit of service is on record.

Under such circumstances, the appeal is disposed of by adding the appellant as a respondent in the writ petition. The appellant shall be entitled to make submissions before the learned Judge at the time of hearing of the writ petition. A copy of the writ petition be served upon the advocate on record for the appellant. Upon perusal of Annexures A and B of GA/2/2026, we find that there is a valid licence and a certificate of enlistment in favour of the appellant. In view of the festive season, we allow the appellant to continue his business for a week from date or until disposal of the writ petition, whichever is earlier.

The report filed by the police authorities is taken on record.

Both the appeal and the application are disposed of accordingly.

As no affidavits have been called for, the factual allegations are deemed not to have been admitted.

The interim protection given to the appellant will not be construed as an observation on his right, title and interest in respect of the shop room and no equity will be claimed.

(SHAMPA SARKAR, J.)

(AJAY KUMAR GUPTA, J.)

pkd.