
(2018) 06 CAL CK 0162
In the Calcutta High Court
Case No : Writ PetitionNo. 7377 (W) of 2018

Sipra Das & Anr.

APPELLANT

Vs

State Of West Bengal & Ors.

RESPONDENT

Date of Decision : 18-06-2018

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2018) 06 CAL CK 0162

Hon'ble Judges : TAPABRATA CHAKRABORTY, J

Bench : Single Bench

Advocate : Asimes Goswami, Paulomi Banerjee, Jyoti Prakas Chatterjee, K.M. Hossain, Goutam Lahiri, S.K. Bajoria, Kanakendu Chatterjee

Final Decision : Dismissed

Judgement

Mr. Goswami, learned senior counsel appearing for the petitioners submits that the petitioners are the joint owners of the property detailed in

paragraph 2 of the writ petition and in the second floor of the building existing on the said property, there is a community hall cum cinema hall. Alleging

that the authorities of Serampore Municipality had violated the conditions of a development agreement and had converted the space allotted for

community hall into a cinematographic hall, the petitioners preferred a title suit in which an interim order was passed restraining the Serampore

Municipality from changing the nature and character of the suit property.

The said interim order was passed on 28th July, 2016 and was extended till the disposal of the suit. In the midst thereof, the respondent no.7 applied

for cinema license under the West Bengal Cinemas (Regulation) Act, 1954 (in short, the said Act of 1954) and obtained a license from the respondent

no. 3 suppressing the material facts. Accordingly, the petitioners brought the

entire fact to the notice of the Commissioner of Police, Chandannagar

Police Commissionerate, who is presently, the competent authority to decide any dispute pertaining to grant of license, by submitting a representation

on 9th May, 2018 and as the same has not been considered, the petitioners have approached this Court.

Mr. Goswami further submits that the respondent no. 2, in terms of the provisions of the said Act of 1954, is under an obligation to consider the

representation of the petitioners and such non-discharge of statutory obligation warrants interference of this Court. Such contention of Mr. Goswami

has been disputed by Mr. Bajoria, learned advocate appearing for the respondent no.7. He submits that initially, the respondent no.7 entered into an

agreement with the petitioners for promoting the property and to construct a cinema hall. Upon coming to learn that the petitioners have entered into

an agreement with the Serampore Municipal authorities towards promotion of the property, it cancelled the agreement with the petitioners.

Thereafter, by a notice quotations were invited by the municipal authorities from reputed units for thorough augmentation of the Manasi Cinema hall

on lease basis under the Municipality. The respondent no.7 applied and emerged to be successful in the tender process and, accordingly, the Chairman

of the said Municipality granted No Objection Certificate to the said respondent no. 7 to operate the cinema hall. Thereafter, in terms of the provisions

of the said Act of 1954, the respondent no. 7 applied for a cinema license and the authorities upon due investigation granted the same on 4th April,

2017. Let the copies of the notice published in the newspaper inviting quotations, the No Objection Certificate and the cinema licence, as produced by

Mr. Bajoria, be kept on record.

The contention of Mr. Goswami has also been disputed by the learned advocates appearing for Serampore Municipality and the State respondents.

The fact that a previous agreement was entered into by and between the respondent no.7 and the petitioners and that the same was subsequently

cancelled, has not been disclosed in the writ petition. It has also not been disclosed that the Municipal authorities invited quotations and that upon

emerging to be successful in the tender process, the respondent no. 7 earned a right to operate the cinema hall.

Indisputably, there is a subsisting title suit amongst the petitioner and the

authorities of the said Municipality who have granted No Objection

Certificate in favour of the respondent no.7 to operate the cinema hall and as such question of relegation of the said issue to the respondent no.2 for

consideration, does not occasion. It appears that the dispute among the petitioners and the respondent nos.6 and 7 involves disputed questions of fact

pertaining to an immovable property, which cannot be adjudicated upon by this Court in a proceeding under Article 226 of the Constitution of India.

Â In the said conspectus, this Court is reluctant to exercise any discretion in favour of the petitioners and the writ petition is, accordingly, dismissed.

There shall, however, be no order as to costs. Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.