

**07.07.2026**  
Court No. 12  
Item No. 20  
**Sandip**

IN THE HIGH COURT AT CALCUTTA  
CIVIL APPELLATE JURISDICTION  
APPELLATE SIDE

**F.M.A. 388 of 2023**

**Suyash Agarwal & Ors.**  
**-Versus-**

**The State of West Bengal & Ors.**

Mr. Keshav Kumar Daruka,  
Mr. Sitikanta Mitra

.....for the appellants.

- 1) The order impugned does not call for interference. Originally, the appellants had challenged a grant of bar/excise licence to a Restaurant-cum-Bar, named and styled as 'Malt'. An injunction was also prayed for, restraining the respondents from renewing such licence.
- 2) According to the learned single Judge, the appellants represented a miniscule percentage of the units in the complex. They did not represent the maximum number of residents of the housing complex. Thus, according to the learned judge, the writ petition could not be maintained in a representative capacity.
- 3) According to the learned single Judge, Rule 9 of the West Bengal Excise (Selection of New Sites and Grant of License for Retail Sale of Liquor and Certain Other Intoxicants) Rules, laid down a procedure for selection of a new site for grant of licence. An obligation was cast upon the Collector to go through certain steps, which were outlined under Rule 9(1) A to G. The Rules provided that, the Collector must consider public grievance.

4) The appellants relied on an e-mail dated November 27, 2019, in which 11 residents of the said complex had raised an objection. According to Her Lordship, the said e-mail could not be treated as a petition recording public grievance.

5) A temporary licence was granted by the authorities to the private respondents on March 6, 2020. There was neither any complaint nor any representation before the collector, before the temporary licence was granted. The e-mail of November 27, 2019, which was sought to be relied upon by the appellants as their objection to the grant of excise licence, was a letter by which an appointment was sought for from the Chairperson of HIDCO, to discuss the issue of illegal construction in the basement of the car parking area of the complex.

6) Thus, according to Her Lordship, the said e-mail could not be treated as an objection to the grant of temporary licence to the respondents dated March 6, 2020. The complaint dated March 27, 2021, was filed after the grant of temporary licence to the private respondents. Her Lordship held that, Rule 9(1) C would not be applicable in the case in hand.

7) Moreover, Her Lordship came to a finding that, the materials on record did not demonstrate that the appellants had ever approached the Collector, before any decision was taken with regard to grant of temporary licence to the respondents. The regular licence was granted sometime in 2022 and it was valid till 2023. Another document which was under challenge, was a communication dated June 22, 2022. The Superintendent of Excise, North

24 Parganas, informed the appellants that, the authorities were not in a position to take steps in view of other pending writ petitions.

8) Under such circumstances, in the absence of any factual or statutory basis to either restrain the grant of or renewal of excise licence in favour of the writ petitioner, the writ petition was dismissed.

9) Learned advocate for the appellants submits that the excise authorities have continued to grant/renew licence to 'Malt', thereby enabling them to run the Restaurant-cum-Bar from a premise, which was illegally constructed.

10) We are of the view that, the cause of action in the subject writ petition was restricted to the grant of a regular licence, which was valid upto 2023. The other document that was under challenge, was the decision of the Superintendent of Excise, informing the appellants that, he was not in a position to take steps in view of the other pending litigation.

11) Accordingly, the appeal and the connected application are disposed of. We do not find any infirmity in the order impugned. Subsequent grant of licence or renewal of licence or subsequent developments in the matter with regard to alleged unauthorized construction etc. are to be agitated in a fresh writ petition, before the appropriate Court, in view of accrual of a fresh cause of action.

12) Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

**(Shampa Sarkar, J.)**

**(Smita Das De, J.)**