

Item No.27

07.05.2024
Ct-24

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 6453 of 2023
Amitava Pariari & Ors.

v.

The State of West Bengal & Ors.

Mr. Ashis Kumar Chowdhury
Mr. Rajib Ghosh
Mr. Babhru Bahan Bera
Mr. Avisek Chatterjee
... for the petitioners.

Mr. Soumik Ganguly
... for the respondent nos. 12 & 13.

Mr. Nilanjan Adhikari
... for the respondent nos. 2,4 & 7.

The petitioners complain that the private respondents have made unauthorized construction over the land which is recorded in favour of the petitioners.

The petitioners submit that the complaint filed alleging unauthorized construction was duly considered and direction has been passed for removal of the encroachment.

Learned advocate representing the private respondents denies the allegation of the petitioner.

It has been submitted that the petitioners have not made any averment that the private respondents made construction over the private land of the petitioners.

It has been submitted that the petitioners ought to have filed a civil suit for removal of the private respondents from the unauthorized constructions.

From the documents annexed to the writ petition it does not appear that the Municipality conducted spot inspection to ascertain the extent and nature of unauthorized construction. The petitioners have annexed photographs to the writ petition to show that the construction is a brick built one with tin shed. There are documents annexed to the writ petition to suggest that the land in question is a Government land.

To ascertain the genuinity of the allegation made by the petitioner in the complaint lodged before the Municipality, the instant writ petition is disposed of by directing the Contai Municipality to cause a inspection upon prior notice to all the necessary parties including the PWD Authorities and the concerned Block Land & Land Reforms Officer. The spot inspection report shall be circulated amongst the parties. Thereafter, an opportunity of hearing will be given to the parties to put forth their respective stand.

If it ultimately transpires that unauthorized construction has been made, then necessary steps shall be taken to deal with the same in accordance with law.

Steps shall be taken in the matter at the earliest but positively within a period of sixteen weeks from the date of communication of this order.

Learned advocate for the petitioner is directed to forward a copy of the representation dated February 15, 2023 addressed to the Chairman of the Contai Municipality at the time of communicating the order of the Court.

If it is found that the construction has been made over any plot of land which belongs either to the Municipality or the PWD (Roads), then it will be open for the appropriate authorities to take steps for removal of the unauthorized construction.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

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(Amrita Sinha, J.)