

Ch. 16.9
3 2020
akb

W.P.A. 22786 of 2019
With
IA No. CAN 1 of 2020 (C.A.N. 12371 of 2019)
With
IA No. CAN 2 of 2020 (C.A.N. 5014 of 2020)
With
IA No. CAN 3 of 2020 (C.A.N. 5016 of 2020)

(Through Video Conference)
Rizia Bibi
-Versus-
The State of West Bengal & Ors.

Ms. Molly Saha	...For the Petitioner
Mr. Sankar Ghosh	...For Barasat Municipality
Mr. Shamim Ul Bari	...For the Applicant in CAN 5014 of 2020
Ms. Piyali Mukherjee	...For the Applicants In CAN 12371 of 2019

In view of the urgency, the matter is taken up for hearing. The application being IA No. CAN 3 of 2020 (C.A.N. 5016 of 2020) is disposed of.

Learned Counsel appearing on behalf of the petitioner submits that the Barasat Municipality has put up a board on her land.

Per contra, learned Counsel appearing on behalf of the Barasat Municipality submits that the Municipality has neither requisitioned nor acquired that property. He further submits that a proposal was received from the applicants, being IA No. 1 (CAN 12371 of 2019), who are claiming title over the portion of the property i.e. the subject matter of the writ petition. He submits that on the basis of a letter wherein the applicants have desired to donate the land to the Barasat Municipality, the board had been erected. He, however, quite fairly submits that the land does not belong to the Municipality and upon direction of the Court, the said board shall be removed forthwith.

Learned Counsel appearing on behalf of the applicants in CAN 12371 of 2019 submits that they are the owners of the portion of the land in question and would like to be added as party in the writ petition.

Another application has been filed, being IA No. 2 (CAN 5014 of 2020) by one Chayma Bibi seeking addition as a party to the writ petition.

I have heard learned Counsel appearing on behalf of all the parties and perused the materials placed on record.

In my view, the Writ Court is not the Court to decide upon the issue of title. The same are disputed questions of fact and are required to be adjudicated upon before a Civil Court. With regard to the main writ petition it is clear that the Barasat Municipality has no authority over the land, and therefore, I direct the Barasat Municipality to forthwith remove the board within seven days from date.

The writ petition is, thus, disposed of.

As the main writ petition has been decided by the above order, CAN 12371 of 2019 and CAN 5014 of 2020 are disposed of and the applicants in these applications are granted leave to pursue their remedy before the appropriate forum.

Since, no affidavit-in-opposition has been called for, the allegations made in the writ petition are deemed to have not been admitted by the respondents.

There will be no order as to costs.

All concerned parties shall act in terms of the

copy of the order downloaded from the official website of this Court.

(*Shekhar B. Saraf, J.*)