

WPA 7937 of 2020

Smt. Chaina Rani Ghosh & Ors.

Vs.

The State of West Bengal & ors.

Mr. Debasish Das,

...for the petitioners.

Mr. Sukanta Das,

...for the respondent nos. 5 to 7.

Mr. Himadri Sekhar Chakraborty,

Mr. Shenaz Tariq Mina,

...for the State.

The petitioners complain of unauthorised construction.

Learned advocate for the petitioners submits that, the private respondents are making construction illegally.

State and the private respondents are represented.

Learned advocate for the private respondents submits that, the petitioners are guilty of suppression of material facts. The petitioners filed a civil suit before the 3rd Court of Civil Judge (Senior Division), Medinipur being Title Suit no. 235 of 2019 which is pending. He draws the attention of the Court to the plaint of such suit. He submits that, construction is the subject matter of the suit. Therefore, according to him, the writ petition is not maintainable.

Learned advocate for the petitioners in reply submits that the question of suppression does not arise

as the suit was filed by the petitioners and there is subsisting order of injunction. He seeks leave to file a supplementary affidavit.

In the facts of the present case, it is admitted that there is a civil suit pending between petitioners and the private respondents relating to the cantilever constructed by the private respondents. It is also admitted that, the petitioners as plaintiffs the suit are seeking a decree of permanent injunction restraining the defendants from making any cantilever or projection or drain towards the suit property and disturbing the peaceful possession of the plaintiffs in the suit property.

Since the subject matter of the suit involves the construction as complained of by the petitioners and since, the petitioners did not disclose such suit till such time it was pointed out by the private respondents, I am not minded to exercise discretion in entertaining the present writ petition.

It is clarified that, none of the observations made herein will prejudice to the parties in Title Suit no. 235 of 2019 in any manner whatsoever.

WPA 7937 of 2020 is disposed of.

(Debangsu Basak, J.)