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W.P.A. 8586 OF 2020

(Through Video Conference)

Tapan Kumar Bhunia @
Tapan Bhunia & Anr.

Vs.

The State of West Bengal & Ors.

Mr. Bijoy Adhikari
Mr. M. A. Samad
Mr. Nayaab Mulla.

... For the Petitioners

Mr. Ranajit Chatterjee
Mr. Dwijadas Chakraborty.

... For the KMC

This is an application under Article 226 of the Constitution of India wherein the petitioners are aggrieved by the inaction on the part of the police authorities with regard to a complaint dated September 29, 2020 filed by the petitioner no.1 with regard to illegal trespass upon a particular piece of land allegedly owned by the petitioners.

Mr. Bijoy Adhikary, counsel appearing on behalf of the petitioners has argued at length and submitted that a title suit being T.S. No.191 of 2015 is pending before the learned Civil Judge (Junior Division), 1st Court at Alipore. He further submits that an ad interim order of *status quo* had been passed on June 5, 2015 which had subsequently been vacated on November 20, 2017 on account of non-appearance of the petitioners. No further

interim order has been passed in the title suit. The matter remains pending before the learned Civil Judge (Junior Division), 1st Court at Alipore.

Mr. Adhikary has also drawn my attention to an order passed on September 29, 2020 by the learned Executive Magistrate, 2nd Court at Alipore, South 24-Parganas. The main grievance of Mr. Adhikary is that the police authorities are not taking action against the private respondents, who are allegedly carrying on illegal construction in the suit premises.

Mr. Ranojit Chatterjee, counsel appearing on behalf of the Kolkata Municipal Corporation has submitted that this is not an appropriate matter wherein the writ court should interfere.

I have heard Counsel appearing on behalf of both the parties and in my view the present writ does not raise such issues that require the interference by the writ court.

Counsel for the petitioners now submits that after the filing of this writ petition, an application under Section 156 of the Code of Criminal Procedure has been filed. Learned Magistrate has sought for a report to be filed on December 7, 2020.

In light of the above submissions, I see no reason to interfere in this writ petition. The writ petition is dismissed.

There shall be no order as to costs.

It is made clear that I have not gone into the merits of this case and the court below shall act in accordance with law.

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

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Shekhar B. Saraf, J.)