

01.03.2021
SL No. 28
Court No.24
(P.M.)

WPA 232 of 2020

Tutul Das & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Debasish Chattopadhyay
... for the petitioners

Ms. Mouzumi Bhowal
... for the Municipality

The petitioners allege that the private respondent is causing obstruction in raising boundary wall over this property.

It appears from the record that the matter was heard by the Municipality. The Chairman of the Municipality in its hearing held on 8th August, 2019 specifically observed that the private respondent complained against the petitioners and others regarding encroaching the land of the private respondent. The Chairman directed further enquiry with proper measurements to be made by the surveyor of both the parties in presence of the Sub-Assistant Engineer of the Municipality.

The petitioners in the writ petition has prayed for issuance of a writ of Mandamus for declaration of their rights in respect of Premises No. 79, Purba Sinthee Lane, Madhugarh, Kolkata – 700030. The petitioners have further prayed for writ of Mandamus to be issued restraining the respondents from interfering with the peaceful possession of the said premises.

It appears from the submissions made by the parties and the documents annexed to the writ petition that the title of the property in question is in dispute. The private respondent complains of encroachment by the petitioners. The Municipality, in my opinion, will not be a proper forum to decide the issue with regard to the disputed question of title of the parties.

In view of the above, the petitioners are granted leave to approach the appropriate forum for declaration of title in respect of the land where the boundary wall is sought to be constructed.

WPA 232 of 2020 stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)