

S/L 5
10.11.2021
Court. No. 19
GB

WPA 300 of 2020
With
CAN 1 of 2020

Siddheswar Samanta
Vs.
The State of West Bengal & Ors.

(Through Video Conference)

Mr. Gautam Guria

...for the Petitioner.

Mr. Rajarshi Basu.

...for the State.

Mr. Supriyo Chattopadhyay.

...for the Municipality.

The Court is not satisfied with the complaint lodged by the petitioner before the Chairman, Haldia Municipality. In the complaint the petitioner has alleged that the respondent no.6 has verbally abused the petitioner, has blocked the common pathway and has also deprived the petitioner from taking drinking water from the common supply which was hitherto enjoyed by the petitioner and the respondent no.6.

These allegations appear to be a private dispute between the brothers. It is not the responsibility of the municipality to enter into the private premises of the petitioner and the respondent no.6 and remove the alleged bamboo fencing placed by the respondent no.6, nor it is the responsibility of the municipality to resolve the dispute with regard to the stoppage of water.

Records of an earlier round of litigation reveal that there was a complaint of encroachment and illegal construction which was ultimately taken care of by the municipality. A direction was issued upon the respondent no.6 to remove such encroachment over the common passage and allow the petitioner to use the moram road by repairing the same. These private issues are not to be adjudicated or enquired into by the municipality.

It is the specific contention of the learned advocate for the municipality that the encroachment on the common passage which was unauthorized, had been removed by the respondent no.6 on the direction of the municipality and the municipality had taken such action pursuant to a direction of this Court.

The learned advocate for the petitioner however submits that unauthorized construction continues and no steps have yet been taken by the municipality. However, this fact has not been urged in the complaint before the Chairman of the Haldia Municipality.

Thus, this writ petition merits no consideration at this stage. However, the petitioner is entitled to raise objections with regard to any unauthorized construction before the municipality by indicating the nature of the unauthorized construction and if such complaint is made, the competent authority of the municipality will act and proceed in accordance with law.

Upon hearing the petitioner as also the respondent no.6, a reasoned order shall be passed and communicated to the parties. The entire exercise shall be completed within 12 weeks.

The municipality on receipt of such specific complaint of unauthorized construction shall intimate the parties and hold an inspection.

It is made clear that neither the question of title and possession nor the disputes with regard to stoppage of water connection, fencing of the moram road and obstruction created by the respondent no.6 are to be gone into by the municipality.

The municipality shall ensure supply of water to the common line of the premises, but it shall not be the responsibility of the municipality to resolve the disputes in this regard between the brothers. If a separate water connection is applied for, the same shall be dealt with in accordance with law.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the learned advocate's communication.

(Shampa Sarkar, J.)