

S/l.24
1.12.2021
Court. No. 19
sn

WPA 6537 of 2021

Dilip Kumar Dalal & Ors.
Vs.
The State of West Bengal & Ors.
(Through Video Conference)

Ms. Pampa Dey (Dhabal) ... for the Petitioners.

Mr. Santanu Kumar Mitra ..for the State

Mr. Raghunath Chakraborty ..for the municipality

The petitioners have alleged that the Maheshtala municipality has started construction of a public urinal in front of the shop of the petitioners, thereby blocking the ingress and egress to the said shop room constructed by the petitioners on holding no.C-5-81/223,224,B.B.T. Road (left side) towards Kolkata on a permission/lease granted by the Public Works Department. The said indenture was entered into on May 23, 1969 between the Executive Engineer of Public Works Department, 11A, Free School Street, Kolkata- 700 016 and one Madan Mohan Dalal. The petitioners claim to be the heirs and legal representatives of said Madan Mohan Dalal. According to the petitioners, the Public Works Department has not permitted the construction of the pay and use toilet.

Mr. Chakraborty, learned advocate for the municipality submits that the petitioners' land has not been encroached. No construction has been made in front of the shop room. That the lease between the father of the petitioner and the Public Works Department expired in the year 1970 and thereafter the said lease has not been renewed. The construction is on the land belonging to the Public Works Department and as such the petitioners' allegations are false and baseless. He further submits that as the petitioners allege encroachment, the proper remedy of the petitioners shall be to approach the appropriate forum in accordance with law.

Having heard the rival contentions of the parties, this Court is of the opinion that the remedy of the petitioner with regard to right, title and possession of the property, lies before the competent civil court. However, the allegation of blocking the frontage of the petitioners' shop room by such construction, even assuming that the construction is on the Public Works Department's road/land, must be gone into and enquired by the Public Works Department.

Under such circumstances, this writ petition is disposed of granting liberty to the petitioners to approach the Executive Engineer, South 24 Parganas Division(PWD) in accordance with law. On receipt of

such application, the petitioners and the municipality shall be heard. A reasoned order shall be passed and communicated to all concerned.

All the parties shall endeavour under the supervision of Public Works Department to see that the construction of the pay and use toilet, which is also essential for the development of the area, is constructed in a way that the petitioners' business does not suffer.

The entire exercise shall be completed within a period of two months from the date of communion of this order.

This writ petition is disposed of.

There will be however no order as to costs.

Parties are directed to act on the server copy of this order.

(Shampa Sarkar, J.)