

7.9.2021
Court No. 19
Item no.13
sn

WPA No. 8476 of 2021

Mahadeb Saha Vs. Madhyamgram
Municipality & Ors.

(via video conference)

Mr. Rajdeep Bhattacharya ..for the petitioner

Mr. Mrityunjoy Goswami
Mr. Parikshit Goswami ..for the respdts.1-3

Mr. Ramashis Mukherjee
Mr. Rameshwar Sinha ..for the respondent no.6

The allegation of the petitioner is that the municipal authorities of the Madhyamgram municipality have not taken any step pursuant to the complaint lodged by the petitioner with regard to shifting of PVC water tank, which has been installed by the respondent no.6. According to Mr. Bhattacharya, learned advocate for the petitioner that the existence of the water tank has caused damage to the ceiling and roof enjoyed by the petitioner. It is prayed that the PVC water tank be shifted to a particular place as per sanction plan. The petitioner allegedly purchased a flat along with roof right on the premises situated at holding no. 119/2, Ward No.10 of Purbalay(Bankim Pally).

It is submitted by the respondent no.6 that the petitioner has made an unauthorized construction on the staircase leading to the roof on

which the petitioner has placed six PVC tanks. These tanks have caused damage to the walls in question. It is also submitted that the PVC tank, from which the water supply is used by the respondent 6 has been existing for more than 20 years and the same is not unauthorized. The respondent no.6 has also produced documents to show that the water tank has been placed on a platform above the floor of the roof and such allegation that the water tank is causing damage to the wall of the petitioner has been denied. He submits that the petitioner is indirectly trying to take forcible possession of the roof.

The learned advocate for the municipality submits that this is a private dispute between the two flat owners of the premises in question and it is not for the municipality to remove the PVC water tank which is not a permanent structure. Neither is the same unauthorized. It is further submitted by him that a letter dated February 25, 2016 was issued by the then Chairman of the municipality being misled by the complaint of the petitioner.

Having heard the learned advocates for the respective parties, this court does not find any reason to interfere in the matter. It is the specific case of the municipality that the dispute does not involve any unauthorized construction.

This writ petition is disposed of without any order. The petitioner may proceed in accordance with law before the appropriate forum to assert his roof right. The writ court cannot exercise jurisdiction in this case.

There will be, however, no order as to costs.

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

(Shampa Sarkar, J.)