

25-05-2021

ct no. 13

Sl.5

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**WPA 9413 of 2021
(Through Video Conference)**

Sudip Sarkar

-Versus-

The State of West Bengal & Ors.

Mr. Shibaji Kumar Das

....for the petitioner

The writ petitioner complains of encroachment of an illegal construction by the private respondents on the property of which he claims title. A civil suit being T.S. 13 of 2021 has been filed by the writ petitioner against the private respondents. The Court of the learned Civil Judge (Junior Division), 2nd Court In-charge at Barrackpore had ordered injunction against the private respondents on January 13, 2021.

The grievance of the writ petitioner in the instant writ application is that the private respondents are making construction without any sanction plan. The petitioner claims to have addressed notices to the Kamarhati Municipality in vain and hence this writ application.

This Court notes that the petitioner could easily have impleaded the Municipality in the said civil suit (T.S. 13 of 2021).

The petitioner having agitated a substantial part of a cause of action against the private respondents, cannot seek enforcement of an order of a civil Court through the writ Court under Article 226 of the Constitution of India.

For the reasons stated hereinabove, the writ petition is not entertained and is hereby dismissed.

It is made clear that the instant order shall not prevent the petitioner from impleading the Kamarhati Municipality and seeking appropriate remedy in accordance with law in the pending civil suit or any proceeding in accordance with law.

There shall be no order as to costs.

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

(Rajasekhar Mantha, J.)