

15.09.2021
Sl. No.13
srm

W.P.A. No. 10034 of 2021

Smt. Bani Chowdhury

Vs.

The North Barrackpore Municipality & Ors.

Mr. S.K. Debnath,
Ms. Manisha Nath

...for the Petitioner.

Mr. Mrinal Kanti Das,
Mr. Subhabrata Das,
Mr. Kartick Goyal

...for the Respondent Nos.1 to 3.

The notice, as per direction of the court has been served upon the respondent No.7. The same is produced before this Court along postal receipt and the track report. Despite service, none appears on behalf of the respondent No.7.

The allegation was of encroachment by the respondent No.7 over a common passage. Although, the municipality is not the authority to decide the question of title or a boundary dispute, this Court directed the municipality to file a report with regard to the allegations in the writ petition including whether the building rules had been complied with or not. The report filed by the municipality in court today, discloses that there is no existence of a common passage. As such, the question of encroachment over a common passage could not be ascertained. Moreover, this dispute cannot be decided by the municipality. It is exclusively within the domain of a Civil

Court. However, the municipality has found certain unauthorised constructions at the instance of both the parties. Pictures have also been annexed to the report. Further, stop work notices had also been issued upon the petitioner sometime in April, 2021. The municipality has stated in the report that with regard to the unauthorised construction by the respondent No.7 as also by the petitioner, the municipality is in a position to initiate proceedings and reach the same to its logical conclusion.

Nothing remains to be decided in the writ petition. The municipality is directed to act in accordance with law upon giving an opportunity of hearing to both the parties. An inspection shall be made prior to the hearing in presence of the petitioner as also the respondent No.7. The report of the inspection shall be supplied to the respective parties. The parties shall be allowed to submit documents in favour of their respective contentions. Thereafter a reasoned order shall be passed and communicated to all concerned.

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

This Court has not gone into the merits of the claim and counterclaim of the parties and the municipality shall take steps in accordance with law.

This writ petition is, thus, disposed of.

There will be no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)