

S/L 11
22.09.2021
Court. No. 19
GB

WPA 10323 of 2021

Arif Ali Molla & Ors.
Vs.
The State of West Bengal & Ors.

(Through Video Conference)

Md. Sarwar Jahan,
Mr. Debanshu Ghorai,
Mr. Habibur Rahaman.
...for the Petitioners.

Sk. Md. Galib,
Ms. Sujata Ghosh.
...for the State.

Mr. Raghunath Chakraborty,
Mr. M. Ahmed.
...for the Mahestala Municipality.

Mr. Manas Kumar Das,
Mr. Sagir Ahmed.
...for the Respondent Nos.8 to 14.

The petitioners, claim to be the co-sharers with the
respondent nos.8 to 14 of the lands, particulars of which are
quoted below:

“District-24-Parganas (South), under P.S.			
Rabindranagar,			
Mouza	Khatian	Plot No.	Area
	No.		
Paharpur, J.L. No.6	79	68	08 decimals
Paharpur, J.L. No.6	404	71	05 decimals”

It is the contention of the petitioners that without any
partition and without obtaining appropriate sanction from

the Mahestala municipality, a construction is being raised on the undivided portions of the plots.

Mr. Das, learned advocate appearing on behalf of the respondent nos.8 to 14 submits that the question of construction on an undivided portion or the co-sharership of the petitioners are not matters to be gone into either by this Court or by the municipality. It is further submitted that the construction has been made in accordance with a plan sanctioned by the concerned municipality. Next, he submits that the disputes raised by the petitioners are civil in nature and, as such, the writ petition should not be entertained.

As none appears on behalf of the Mahestala municipality despite service, the Court directs Mr. Raghunath Chakraborty, who usually appears on behalf of the said municipality to accept the brief in this matter. His appearance may be regularized by the municipality.

Having heard the contentions of the respective parties, this Court is in agreement with the contention of Mr. Das to the extent that the question of title, co-sharership, encroachment, etc., cannot be gone into by the writ court or by the municipality. It is the duty of the municipality to ensure that no unauthorized construction takes place in deviation of a sanction plan or in absence of a sanction plan. As the petitioner has made a representation which appears at page 27 of the writ petition, the competent authority of the municipality shall dispose of the said representation in accordance with law. While disposing of the said

representation, an inspection shall be held by the concerned authority in presence of the parties. A copy of the inspection report shall be handed over to the parties. A hearing will be given to the parties. Thereafter, a reasoned order shall be passed and communicated to all concerned. The municipal authorities shall reach the said proceeding to its logical conclusion on the basis of what transpires at the inspection as also at the hearing.

This Court has not gone into the merits of the claims and counter-claims of the parties.

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

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 server copy of this order.

(Shampa Sarkar, J.)