

13.07.2021
Court No. 19
Item no.4
sn

WPA No. 10879 of 2021

PURNA CHANDRA MAITY VS. THE STATE OF
WEST BENGAL & ORS.

(via video conference)

Mr. Partha Sarkar
Mr. Sandip Ghosh
....for the petitioner.
Mr. Koushik Chatterjee
Mr. Nilanhjan Adhikari
..for the respondent nos. 2&3
Ms. Kabari Roy
Mr. Pinaki Dhole
..for the respondent no.4

This writ petition has been filed challenging inaction on the part of the Contai Municipality in taking action against the respondent no.5, who according to the petitioner, was allegedly making unauthorized construction.

It is the contention of the petitioner that the suit plot is an undivided property. The partition suit being Title Suit no. 31 of 2010 was decreed in preliminary form by the learned Civil Judge, Senior Division, Contai, District Purba Medinipur. There was an order of injunction on the parties, restraining them from changing the nature and character of the suit property. A partition commissioner had been appointed. The partition commissioner has already filed a report and the respondent no.5 has filed an objection to the report. The report is pending acceptance by the Civil Court.

It is submitted by the learned Advocate for the petitioner that the Chairman, Board of Administrator of Contai Municipality has failed to take measures as provided under the statute and has refused to initiate proceedings against the illegal construction carried out by the respondent no.5.

From the pleadings and the representation made by the petitioner, it appears that the allegations against the respondent no.5 is that the respondent no.5 with an attempt to raise construction was filling in earth on a portion of the undivided property.

The learned Advocate for the municipality submits that the municipal authorities after receiving a copy of the complaint visited the locality and did not find any construction. Some old bricks were lying on the land and there was no sign of any new construction.

The petitioner has alleged in the representation that the respondent no.5 was trying to take possession over a certain portion of the undivided property and was filling in earth. There is no allegation of any construction having been raised.

Under such circumstances, the remedy of the petitioner will lie before the Civil Court where the suit is pending and the petitioner will be at liberty to approach the Civil Court in accordance with law.

I do not find any inaction on the part of the Contai Municipality or violation of any provision of the statute by the Contai Municipality and as such no order need be passed in this writ petition.

This writ petition is thus disposed of.

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.)