

W.P.A. 10865 of 2021

(Through Video Conference)

**SUMAN KUMAR SAMANTA
VS.
THE STATE OF WEST BENGAL & ORS.**

**Mr. Mukteswar Maity
...for the petitioner
Mr. T.M. Siddique
..for the State
Ms. Sohini Chakraborty
Ms. Projaaini Das
..for the respondent no.5
Mr. Abhishek Sikdar
..for the Municipality**

Let the affidavit-of-service filed in Court today be taken on record.

This writ petition has been filed challenging inaction on the part of the Administrator, Tampralipta Municipality in disposing of the representation of the petitioner dated April 7, 2021, alleging unauthorized construction by the respondent no.5. The respondent no.5 is represented by Ms. Sohini Chakraborty, who submits that the respondent no.5 has a sanctioned plan from the concerned authority.

Mr. Maity, learned Advocate for the petitioner submits that the property being a joint property, the municipal authorities ought not to have granted any sanctioned plan.

This Court cannot decide the title of the parties in respect of the land in question. The municipality also cannot decide the question of title and ownership of the property. Whether the property in question is an undivided property in which the petitioner and respondent No.5 are co-sharer are matters which cannot be decided either by this Court or by the municipality. However, it is the bounden duty of the municipal authority to ensure that unauthorized construction should not be carried out by any party in respect of any property in question.

In this writ petition, there is an allegation that the respondent no.5 has carried out construction unauthorisedly, without any sanctioned plan.

Thus, this writ petition is disposed of with a direction upon the competent authority of the Tampralipita Municipality to consider the grievances of the petitioner, as enumerated in the representation dated April 7, 2021 and dispose of the same in accordance with law upon granting an opportunity of hearing to the petitioner, the respondent no.5 and any other interested persons. If it is found that there is an illegal construction in violation of the sanctioned plan or in absence of the sanctioned plan, then the authority shall proceed in accordance with law.

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

This writ petition is disposed of.

There will be however no order as to costs.

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

(Shampa Sarkar, J.)