

S/L 35
03.08.2021
Court. No. 19
GB

W.P.A. 11392 of 2021

Gobinda Chandra Bag & Anr.
VS
Asansol Municipal Corporation & Ors.

(Through Video Conference)

*Mr. Saranya Chatterjee,
Mr. Hemanta Kumar Das,
Mr. Nepesh Majhi.*

...for the Petitioners.

Mr. Sounak Bhattacharya.

...for the Asansol Municipality.

Affidavit-of-service filed in Court today be kept with
the record.

Despite service none appears on behalf of the
respondent no.3.

The petitioners allege that the Asansol Municipal Corporation did not look into the grievances of the petitioners with regard to the unauthorised construction on a public lane allegedly maintained by the Asansol Municipal Corporation. It is submitted that the lane used by the petitioners and other members of the locality for egress and ingress into their respective houses is maintained by the Asansol Municipal Corporation, but the respondent no.3 raised some unauthorised construction on the said lane. Despite several complaints, the said obstruction was not removed. The corporation called the petitioners as also the respondent no.3 for a hearing, but no final order has been

passed by the corporation. It is also submitted by the petitioners that, apart from the encroachment on the public lane, the respondent no.3 has constructed illegally. Aggrieved, this writ petition has been filed.

Mr. Bhattacharya, learned advocate appearing on behalf of the Asansol Municipal Corporation submits that a joint inspection was held in presence of all the parties. The inspection revealed that the lane/passage was not maintained by the corporation. It was not a road under the corporation but a common passage over which the parties have claimed title and the dispute is a private one.

Admittedly, the question of title and/or encroachment over private lands are not matters to be gone into by the corporation. However, it is the duty of the corporation to ensure that no person constructs unauthorisedly on any property.

Under such circumstances, as the corporation has already made an inspection and has held a hearing, this Court is of the opinion that the corporation should reach the proceeding to its logical conclusion by passing a final order. Another opportunity of hearing shall be given to the parties. The inspection report shall be handed over to the parties and thereafter a reasoned order shall be passed and communicated to all concerned. The corporation will only consider whether there is any unauthorised construction and whether there has been any encroachment, on a public road or lane maintained by the corporation.

This Court has not gone into the merits of the claims and counter-claims of the parties and the corporation shall decide the issues in accordance with law.

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

The writ petition is disposed of.

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.)