

S/L 15
11.8.2021
Court No.19
SD

WPA 12408 of 2021
(Via Video Conference)

Smt. Mohua Pradhan (Maikap) & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Ashish Chandra Bagchi
Mr. Prabir Misra
Mr. Shibendra Nath Chattopadhyay
Mr. Priyam Misra

...for the Petitioners.

Ms. Sudipa Roy
Ms. Susmita Biswas Chowdhury

...for the State.

Mr. Koushik Chatterjee
Mr. Nilanjan Adhikari

...for the Respondent Nos.6 & 7.

Mr. Manoranjan Jana

...for the Respondent No.8.

The petitioners have alleged that the Contai Municipality has sanctioned a plan in favour of the respondent nos.8 to 11 in the teeth of an order of injunction passed by a Civil Court. The property in question is situated at Sabek Dag No.885, Hal Dag No.1169, in mouza Athilagari, J.L. No.370, Police Station Contai, District Purba Medinipore measuring about 3 decimals. It is alleged that the property is a joint property.

According to Mr. Ashish Chandra Bagchi, learned Senior Advocate, the sanction plan could not have been issued in favour of the respondent nos.8 to 11 as a civil suit is pending and an injunction order was passed directing the parties to maintain status quo in respect of the land in question. He prays that the Municipality be directed to take steps against any construction made in violation of the order of status quo.

Mr. Nilanjan Adhikary, learned advocate appearing on behalf of the Contai Municipality, submits that the plan was sanctioned in favour of the respondent nos.8 to 11 prior to the order of status quo and as such, the municipality was not wrong in granting such a sanction.

He further submits that the municipality is not a party in the civil suit and no order has been passed on the municipality either for implementation of the order passed by the Civil Court or injunction the municipality from granting sanction.

Mr. Manoranjan Jana, learned Advocate appearing on behalf of the respondents nos.8 to 11 submits that the orders sought for in the writ petition should be passed by a Civil Court and the allegation of violation of the order of status quo has to be adjudicated by the Civil Court.

Having considered the rival contentions of the parties, it is for the petitioners to approach the civil court if the respondents Nos. 8 to 11 have violated the order of the Civil Court. The petitioners can also pray before the learned Civil Court for police help for any such order for implementation of the order of status quo. The civil court is the appropriate forum to decide whether there has been any violation of order of injunction and is also the authority to direct and/or pass such orders, as may be necessary. If the civil Court comes to a finding that the construction was made by the respondents Nos. 8 to 11, in violation of the order of status quo, the civil court can also pass mandatory orders. Without any finding by the civil court that construction had been made in violation of the order of status quo, no mandatory order can be passed upon the municipality.

Under such circumstances, the writ petition is disposed of with the above observations.

It is also made clear that this order will not prevent the parties from approaching the civil court for appropriate remedy.

However, it is the responsibility of the municipality to ensure that no illegal construction takes place in violation of the sanction plan.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)