

15.09.2021
Court No. 19
Item no.17
CP

WPA 12969 of 2021

Golam Hossain Mondal
Vs.
The State of West Bengal & ors.

Mr. Ramkrishna Bhattacharya
Mr. Somraj Dhar

.....for the petitioner.

Mr. Suman Sengupta
Mr. Sanatan Panja

....for the State.

Despite service, none appears on behalf of the respondents other than State.

The petitioner has alleged that some unknown persons have been digging up land situated at Dag Nos. 1419, 1420, 1421, Mouja-Panchur, pertaining to C.S. Khatian No. 339, R.S. Khatian No. 943, JL No. 03, Touji No. 348 Police Station - Rabindranagar without any authority and by forcefully encroaching into the land of the petitioner. Accordingly, the petitioner lodged a complaint before the Chairman, Maheshtala Municipality.

It is submitted that pursuant to the complaint, a 'Stop Work' notice was issued upon the respondent no. 7 and 8. The said respondents were directed to appear before the Sub-Assistant Engineer, Building

Department-in-charge, Maheshtala Municipality with all documents. It is alleged that, thereafter, no steps have been taken and the construction is going on.

This court is of the opinion that the title over the plots of land where the alleged construction is being carried on, cannot be decided by the municipality. It is not for the municipality to decide whether the contention of the petitioner of being the owners of the land in question or the counter claim of the respondent nos. 7 and 8 of being the owners in possession of the said lands are correct or not. However, it is the duty of the municipality to ensure no unauthorized construction takes place on any land without any sanction plan or in deviation of a sanction plan.

In this matter, as the municipality has already taken steps by issuing a notice to the respondent nos. 7 and 8 dated April 22, 2021, nothing remains to be decided in the writ petition, save and except that the municipal authorities shall ensure that no unauthorized construction takes place and reach the proceedings initiated by issuance of 'Stop Work' notice to its logical conclusion upon hearing the petitioner as also the respondent nos. 7 and 8.

It is made clear that the municipal authority shall not decide the question of title. The municipal authority will also not decide the question of

encroachment or boundary dispute, but shall only restrict its enquiry and decision to the allegations of unauthorized construction and take steps accordingly.

All steps to be taken by the municipality shall be in the presence of the petitioner as also the respondent nos. 7 and 8 and an opportunity of hearing should be given to all the parties. A reasoned order shall be passed and communicated to all concerned.

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

The writ petition is, thus, disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)