

22.12.2021
sayandeep
Sl. No. 06
Ct. No. 05

WPA 15359 of 2021

[Via Video Conference]

Sri Debasish Sarkar
-Versus-
The State of West Bengal & Ors.

Mr. Soumajit Das Mahapatra
Mr. Supriyo Das

..... for the petitioner

Mr. Arun Kr. Roy
Mr. Ejaz hossain

..... for the State

Mr. Mohinoor Rahaman
Ms. Maria Rahaman

..... for the respondent No. 9

The grievance of the petitioner is against an order passed by the Chairman of the Baranagar Municipality on 10th September, 2021 pursuant to an order passed by this Court directing the said authority to dispose of the representation of the private respondent who was the petitioner in WPA 7798 of 2020.

The dispute is between the petitioner and the private respondent (respondent No. 9) in relation to two plots of land. The private respondent seeks to construct a boundary wall which was allowed by the impugned order.

Learned counsel appearing for the petitioner submits that the impugned order does not take into account two documents placed by the petitioner for consideration. These two documents are annexed to

the writ petition and appear to have been issued by the Department of Municipal Affairs and Baranagar Municipal Office respectively. The documents are with regard to a pathway being used as a common passage for the last hundred years.

Learned counsel appearing for the private respondent raises question on the genuineness of the documents and submits that the private respondent has a right to construct a boundary wall around plot No. 338. The impugned order dated 10th September, 2021 allowed the claim of the private respondent for constructing a boundary wall on the ground that the petitioner not been able to produce any document to show that the land is being used as a common passage. Even if the concerned authority considered the documents which are on record before this Court, the order does not reflect such consideration. There is no mention of the said documents in the order.

This Court is therefore of the view that to do complete justice between the parties, the Chairman of the Baranagar Municipality/the respondent No. 3 should be requested to hear the parties once again upon considering all relevant documents including those which have been annexed to the present writ petition. The reasoned decision shall be given upon hearing the parties and considering the documents

within five weeks from date. A copy of the reasoned order shall be furnished to the parties within a week thereafter. The order dated 10th September, 2021 is set aside and WPA 15359 of 2021 is disposed of in terms of the above order.

On the request of the learned counsel appearing for the private respondent, the State respondent shall be entitled to participate in the hearing through his/her authorized representative.

(Moushumi Bhattacharya, J.)