

17.09.2021
Sl. No.10
srm

W.P.A. No. 14083 of 2019

Sri Mahadeb Singh & Anr.

Vs.

The Uttarpara-Kotrung Municipality & Ors.

Mr. Amitabha Ghosh,
Sk. Sujauddin,
Ms. Nabanita Chatterjee

...for the Petitioners.

Mr. Ankit Agarwala,
Mr. Alotriya Mukherjee

...for the Respondent No.5.

Despite service, none appears on behalf of the Uttarpara-Kotrung Municipality. Affidavit of service is taken on record.

The petitioners claim that the respondent No.5 has constructed a wall on a common passage belonging to the petitioners, unauthorisedly and without permission from the Uttarpara-Kotrung Municipality.

The learned Advocate for the respondent No.5 submits that a boundary wall has been constructed on the portion of the property of which the respondent No.5 is the owner. That the said wall has been constructed after obtaining permission from the municipality.

The allegation of the petitioners is that the illegal construction has blocked the ingress and egress of the petitioners. That the alleged common passage is situated on

the southern portion of Holding No.243, Rajendra Avenue,
Ward No.14 of Uttarpara-Kotrung Municipality

The allegation with regard to encroachment and title are not to be looked into by the municipality. Both the parties have made rival claims with regard to the ownership possession over the passage in question. It is not for the municipality to decide to whom the passage belongs. Even if there is a boundary dispute, it is not for the municipality to decide the same. However, if any alleged wall has been constructed in violation of the building rules or without any permission from the municipality, it is the duty of the appropriate authority of the municipality to enquire into such allegation and take steps in accordance with law.

The writ petition is disposed of with a direction upon the Chairperson, Board of Administrators of Uttarpara-Kotrung Municipality to dispose of the representation of the petitioner dated June 22, 2019 in accordance with law by restricting the consideration only to the aspect as to whether there has been any construction by the respondent No.5 without any permission from the municipality or in deviation of any permission or in violation of the building rules. While disposing of the said representation, the petitioners and the respondent No.5 shall be called for a hearing. A reasoned order shall be passed and communicated to the parties within

a period of eight weeks from the date of communication of this order.

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

This writ petition is, thus, disposed of.

There will be no order as to costs.

All parties are to act on the basis of the server copy of this order. A copy of the representation shall be served upon the Chairperson, Board of Administrators along with the server copy of this order.

(Shampa Sarkar, J.)