

4th January,
2021
(AK)
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W.P.A 8279 of 2020

Rizia Bibi & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Shamimul Bari
Ms. Molly Saha
...For the Petitioners.

Md. Galib
Mr. Sougata Mitra
...For the State.

The petitioner alleges that the petitioner is the owner and occupier of the land-in-question. However, in view of the Barasat Municipality having set up a notice purporting to have acquired the land, the petitioner moved this court by filing WPA 22786 of 2019.

A coordinate Bench passed an order dated September 16, 2020, observing that the writ court is not the court to decide upon the issue of title and that, the same being a disputed question of fact, was required to be adjudicated upon before a Civil Court. The Municipality, however, was directed to forthwith remove the board within seven days.

Learned counsel for the petitioner submits that despite the Municipality having removed the board, the private respondents are disturbing the petitioner's peaceful occupation and enjoyment of the said property, prompting the petitioners to approach the police authorities.

In spite of such complaint, it is urged, the police authorities are not taking appropriate action to restrain the private respondents from doing so.

However, as correctly held by the coordinate Bench in the order dated September 16, 2020, the issue of title, which is at present in dispute, is beyond the jurisdiction of the writ court to adjudicate.

Previously, since the municipality was held not to have any authority over the land, the coordinate bench directed it to remove its board from the property.

However, the present prayer pertains to the dispute between the petitioners and the private respondents as regards the title to the land-in-question.

Such matter cannot be decided by the Civil Court, since it involves detailed adjudication on factual questions, which requires evidence to be led.

Accordingly, W.P.A 8279 of 2020 is disposed of by granting the petitioners and the private respondents liberty to approach the appropriate Civil Court for resolution of their dispute as to title and to seek appropriate interim relief before such court.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)