

Item No.22

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(via video conference)

15.02.2021
Ct-24

W.P.A.11466 of 2020
Sujata Chatterjee
V
Bhadreshwar Municipality & Ors.

Mr. Subrata Mukhopadhyay
Mr. Bhaskar Ghosh
... for the petitioner.

Ms. Sipra Majumdar
Mr. Khairul Alam
... for the State.

Mr. Gaurav Purokayastha
Mr. Pinaki Brata Ghosh
Mr. Ashutosh Mukherjee
... for the respondent no. 7.

Mr. Somnath Roy
... for the Bhadreshwar Municipality.

The petitioner alleges unauthorized construction being made by the private respondent in a common passage in the holding No.225/1, Ferry Ghat Street, P.O.-Telenipara, District-Hooghly, Pin-712125 in Ward No. 8 under the Bhadreshwar Municipality.

In response to the complaint made by the petitioner a notice under Section 204 of the West

Bengal Municipal Corporation Act, 2006 was issued in favour of the private respondent by the Bhadreshwar Municipality on September 8, 2020. The petitioner prays for conclusion of the proceedings initiated by the Bhadreshwar Municipality.

The learned advocate representing the Bhadreshwar Municipality submits that a letter was served by the petitioner to the Chairman of the Bhadreshwar Municipality on September 29, 2020 with a request to withdraw the complaint lodged against the private respondent. It was also mentioned in the said letter that permission may be given to the private respondent to finish his work as per the clauses provided in the agreement entered into in between the parties.

The learned advocate appearing on behalf of the private respondent submits that the issue in question is absolutely private in nature. There is an agreement for construction between the petitioner and the private respondent who are siblings. There is a clause for arbitration in the said agreement that in the event any dispute

arises in between them then the same may be resolved by arbitration. Prayer has been made for dismissal of the writ petition.

Upon hearing the submissions made on behalf of all the parties it appears that though initially a complaint was lodged by the petitioner against the private respondent alleging unauthorized construction but thereafter the said complaint was withdrawn by the petitioner. The Bhadreshwar Municipality initially acted on the basis of the complaint lodged by the petitioner but thereafter did not take any steps in the matter as the complaint was withdrawn.

It appears that on October 17, 2020 the petitioner made a further representation to the Chairman, Bhadreshwar Municipality alleging unauthorized construction by the private respondent.

From the aforesaid submissions it is evident that there is a civil dispute in between the parties. The Municipality is not entitled to enter into and decide the issue of right, title and interest of the parties.

The Municipality is accordingly directed to consider the representation of the petitioner, strictly in accordance with law, and to take steps only if there is any construction which has been made in contravention of the provision of law. The Municipality shall not enter into any disputed question of right, title and interest of the parties. The Municipality will give an opportunity of hearing to the petitioner and the private respondent and pass a reasoned order within a period of four months from the date of communication of a copy of this order and communicate the same to the petitioner and the private respondent immediately thereafter.

WPA 11466 of 2020 stands disposed of.

Since the writ petition is being disposed of without calling of affidavits, the allegations made therein are deemed not have been admitted by the respondents.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(**Amrita Sinha, J.**)