

17.03.2022
Sl. No. 26
ss

W.P.A. 288 of 2022

Apchar Ali Mondal & ors.
Vs.
The State of West Bengal & ors.

Mr. A. K. Routh
Ms. Anindita Auddy (Das)
... for the petitioners

Mr. Santanu Kumar Mitra
Mr. Subhabrata Das
... for the State

Mr. Atarup Banerjee
Mr. Samit Bhanja
... for the respondent nos.7 & 8

Mr. Debabrata Saha Roy
Mr. Arka Nag
Mr. Subhankar Das
... for Bidhannagar Municipal Corporation

Affidavit of service filed in Court is taken on record.

The petitioners' contention is that the respondent nos.7 and 8 have been raising some construction on the plot situated at Dag Nos.846, 851 and 852 corresponding to Khatian No.881 in Mouza Atghara under Bidhannagar Municipal Corporation.

Records reveal that a suit for declaration of title and permanent injunction has been filed, which is pending consideration.

The prayer for interim injunction restraining the respondent nos.7 and 8 from disturbing the peaceful possession and enjoyment of the property of the

petitioners has not yet been considered as yet and is pending consideration.

Records also reveal that the proceeding initiated by the petitioners under Section 144 CrPC has been stayed by a revisional court.

Mr. Banerjee, learned Advocate appearing on behalf of the respondent nos.7 and 8 submits that this is the third attempt on the part of the writ petitioners to disturb the rightful claim of the respondent nos.7 and 8, in respect of the property in question.

The rival contentions of the parties persuades this Court to hold that the dispute between the parties also border around the question of title, possession, boundary issues etc.

However, it has been contended that there has been some unauthorised construction. The police authorities have filed a report from which it appears that at present no new construction work is going on.

The allegations as appearing in the demand of justice are that the respondent nos.7 and 8 have been raising a construction by encroaching into the land of the petitioners.

Thus, neither the writ court nor the corporation can decide the allegations of encroachment or the boundary dispute between the parties.

However, the petitioners are at liberty to file a detailed complaint before the Corporation with the

allegation of the alleged illegal construction. If such complaint is filed, the same shall be disposed of by the Corporation in accordance with law upon giving an opportunity to all the interested parties to appear before the authority, make their submissions and adduce oral and documentary evidence in respect of their individual claims.

Needless to mention, the Corporation shall act and proceed in a manner by allowing adequate opportunity to all the parties.

This Court has not gone into the merits of this case.

The entire exercise shall be completed within a period of three months from the date of making such complaint.

With the above observations, this writ petition is disposed of. There shall be no order as to costs.

All parties are to act on website copy of this order.

(Shampa Sarkar, J.)