

Item No. 10

10.08.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 3203 of 2019
Sri Mahadeb Ghosh

v.

The State of West Bengal & Ors.

Mr. Ayan Banerjee
Mr. Arindom Chatterjee
... for the private respondent no. 5 to 8.

Mr. Suman Basu
... for the Corporation.

None appears on behalf of the petitioner. No accommodation has been sought for.

Learned advocate representing the Chandannagar Municipal Corporation has produced the permission issued in favour of the respondent nos. 6 & 8 for making construction of "Dwelling Unit" under the Housing For All (PMAY) 2015-2022 Programme.

The respondent nos. 5 and 7 have transferred their undivided share in the property in favour of the respondent no. 8.

Learned advocate for the private respondents submits that they are making construction in accordance with the plan sanctioned by the Chandannagar Municipal Corporation.

Fact remains that a partition suit is pending between the petitioner and the private respondents in respect of the same property. The parties are related by blood.

The petitioner has failed to obtain any order of stay for making construction from the learned Court below in the pending partition suit.

At this stage, there is no scope for the writ Court to interfere in the matter, as the private respondents are making construction in accordance with the plan sanctioned by the Chandannagar Municipal Corporation.

The restraint order which was passed by this Court on February 15, 2019 restraining the private respondents from raising any further construction on the plots of land till the next date for hearing fixed on February 27, 2019 has not been extended and accordingly, the private respondents are free to make construction strictly in accordance with the plan sanctioned by the Corporation.

It is made clear that the construction to be made by the private respondents will not create any right and/or equity in favour of the private respondents and the property in question shall be partitioned in terms of the order to be passed in the pending partition suit.

The writ petition stands disposed of.

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.)