

24.03.2022
Court No. 19
Item no.06
CP

W.P.A. 4951 of 2021

Dipak Kumar Mallick
Vs.
The State of West Bengal & Ors.

Mr. Debasis Sur,
Mr. P. Chakraborty,
Mr. Himadri Pal.

... for the Petitioner.

Mr. Malay Krishna De,
Mr. Subhendu Banerjee

... for the State.

Mr. Animesh Paul.

... for the Respondent Nos.11 & 12.

Mr. Dwaipayan Basu Mallick,
Mr. Arkaprava Sen
Mrs. Sudeshna Mazumder

... for the Municipality.

The allegation in the writ petition is that the officials of the Basirhat Municipality (hereinafter referred to as 'the municipality'), had forcefully entered into the land of the petitioner situated at Dag No. 1952, pertaining to Khatian No. 15265, Mouza – Basirhat and had constructed a drain.

On the first occasion when the matter was taken up for hearing, the municipal authorities had submitted before the court that the construction of the drain was not at the instance of the municipality, but at the instance of the respondent nos. 11 and 12.

The respondent nos. 11 and 12 claim alternative title to the said land in question.

As the allegations are against the municipality, this court had directed a competent officer of the municipality to file a report. A report has been filed before this court, from which it appears that an inspection was made of the premises in question, and it was found that a drain had been constructed on the premises in question. Further, upon examination of the office records, it was found that the said construction of the drain was not made by the municipality.

On the basis of the report filed, nothing further remains to be decided in the writ petition. As the municipality has not claimed any responsibility for the said drain in question, the writ court cannot direct any further investigation into the matter.

The petitioner is at liberty to proceed in respect of the alleged construction of the drain, in accordance with law. The report filed by the municipality is kept with the records.

This court has not decided the title or the possession of the parties and the same shall be adjudicated by an appropriate forum when the occasion so arises.

Copies of the report be circulated amongst the learned advocates for the respective parties.

The municipal authorities shall not claim any right or connection in respect of the said drain in future.

The writ petition is, thus, disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)