

List dated
06-06-2022
235.
21-06-2022
debajyoti
(Ct. no.24)

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

WPA 4268 of 2020

**Seshnath Singh & Anr.
Vs.
The State of West Bengal & Ors.**

Mr. Prasanta Kumar Banerjee,
Ms. Indrani Nandi,
Ms. Krishna Yadav

... For the Petitioners.

Mr. Asish Kumar Guha,
Mr. Naren Ghosh Dastidar

... For the State.

The petitioners allege that the private respondent has constructed a 'goomty' on the public road in such a manner that the ingress and egress to the brick-field of the petitioners is being completely blocked.

The brick-field of the petitioners is situated at 96/3, S.C.M. Road, Baidyabati, P.S. Serampore under the jurisdiction of the Baidyabati Municipality.

The petitioners made a representation before the Chairman of the Municipality on 26th October, 2019 and allege that the same has not been considered by the respondent authority till date.

It has been submitted that the 'goomty' has been constructed without obtaining the necessary permission/sanction from the Baidyabati Municipality.

None appears on behalf of either the Municipality or the private respondent, despite service. Affidavit-of-Service filed in Court is taken on record.

As it appears that the representation filed by the petitioners alleging blocking of ingress and egress to the brick-field of the petitioners is pending consideration at the end of the Municipality, accordingly, the instant writ petition is disposed of by directing the respondent no.7, being the Chairman, Baidyabati Municipality, to take steps to consider and dispose of the representation filed by the petitioners on 26th October, 2019, strictly in accordance with law at the earliest, but positively, within a period of twelve weeks from the date of communication of this order. The aforesaid respondent shall afford reasonable opportunity of hearing to the petitioners and all other necessary parties prior to taking a decision in the matter. The aforesaid respondent shall pass a reasoned order and communicate the same to the parties immediately thereafter.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorized construction, in accordance with law.

It is made clear that this Court has not entered into the merits of the claim of the petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioners.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

The petitioners are directed to forward a copy of the representation dated 26th October, 2019 to the aforesaid respondent at the time of communicating the order of the Court.

WPA 4268 of 2020 is, thus, disposed of.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Amrita Sinha, J.)