

Item No. 47

22.08.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 6403 of 2022

Mangala Ghosh
v.
The State of West Bengal & Ors.

Mr. Saunak Bhattacharyya
Mr. Saunak Mandal
... for the petitioner.

Mr. Vivek Jyoti Basu
Ms. Rupsha Chakraborty
... for the State.

Mr. Mir Anuruzzaman
... for the Municipality.

Mr. Rajdeep Bhattacharyya
... for the respondent nos. 7, 8, 10, 11 & 12.

The petitioner alleges that the respondent nos. 7 to 12 are making construction over a water body without obtaining the necessary sanction from the Rajpur Sonarpur Municipality.

The representation filed by the petitioner in February 2022 has not been considered by the Municipality till date.

The dispute is in relation to the holding No. 301 in the Gandipara Road.

The allegation of the petitioner is denied by the learned advocate representing the private respondents. It

has been submitted that no unauthorized construction is being made on the subject plot of land. Reliance has been placed on the record-of-rights where there is no mention of the water body.

On the other hand, learned advocate for the petitioner relies upon the final report of the Partition Commissioner which mentions about the water body.

As it appears that the representation filed by the petitioner is pending consideration at the end of the Municipality, accordingly, the Rajpur Sonarpur Municipality is directed to take steps to consider the representation filed by the petitioner strictly in accordance with law after giving reasonable opportunity of hearing to the parties within a period of twelve weeks from the date of communication of a copy of this order.

The said respondent shall pass a reasoned order and communicate the same to the parties immediately thereafter.

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

The men and agents of the Rajpur Sonarpur Municipality is directed to cause physical inspection of the premises to ascertain whether any water body exists

on the said plot of land or not. In the event, there is any unauthorized construction, necessary steps shall be taken by the Municipality to deal with the same in accordance with law.

The writ petition stands disposed of.

Affidavit-of-service filed in Court is taken on record.

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.)