

Sl. No.66
05.09.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 7513 of 2022

Sanjay Chatterjee & Anr.

vs.

Banshberia Municipality & Ors.

Mr. Rittick Chowdhury

Mr. Ramij Munsi

... for the petitioners

Mr. Biplab Ranjan Bose

... for the respondent nos.1, 2 & 3

Mr. Angshuman Chakraborty

Mr. Shivaji Mitra

... for the respondent nos.6, 7 & 8

The petitioner alleges that the Municipality has given a No Objection Certificate for demolition of a portion of holding No.26, Mahakalitala Main Road, Ward No.7, under the jurisdiction of Banshberia Municipality.

According to the petitioners, portion over which No Objection Certificate has been granted for demolition is a common property. A suit for declaration of title is pending in between the co-owners of the said property before the learned Civil Judge.

The Municipality has issued a No Objection Certificate for demolition in respect of the property which is pending adjudication before the learned Court below.

The petitioner applied before the Municipality highlighting his grievance in February, 2022 and alleges that the same has not been taken up for consideration till date.

Learned advocate representing the respondent nos.6, 7 & 8 submits, upon instruction that, portion where the Municipality has given permission for demolition is the sole and absolute property of the respondent no. 6. A Partition Deed has already been registered in between the parties pursuant to which the private respondent no.6 is the sole and absolute owner of the said portion.

It has been submitted that in the Suit for declaration that is pending in respect of the said portion, no order of injunction has been passed by the learned Court below and the Municipality is also not a party to the said Suit.

Learned advocate appearing for the Municipality submits that the fact that the portion is a common property was not brought to the knowledge to the Municipality.

The Municipality proceeded on the basis of the partition deed. The name of the respondent no.6 is recorded in respect of the aforesaid premises No.26, Mahakalitala Main Road.

As it appears from the submissions made on behalf of all the parties that the portion where the

impugned order of demolition has been issued is connected with the Suit that is pending consideration before the learned Court below, accordingly, the parties are relegated to the competent forum for obtaining necessary order for either demolition or construction of any portion of the said property.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities

(Amrita Sinha, J.)