

Item No. 36

24.08.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 8032 of 2022

Shyamsundar Shaw & Anr.
v.
The State of West Bengal & Ors.

Ms. Pampa Dey (Dhabal)
... for the petitioners.

Ms. R.N. Chakraborty
Mr. H. Ahmed
... for the Municipality.

Md. Sarwar Jahan
Mr. Maidul Islam Kayal
... for the respondent no. 7.

The petitioners allege illegal and unauthorized construction at the instance of the private respondent no. 7 by making construction over a water body.

The specific grievance of the petitioner is that Dag No. 854, Khatian No. 3323 recorded in favour of the respondent no. 7 is classified as a Doba.

According to the petitioners the private respondent made construction thereon without conversion of the classification of the said plot of land.

The petitioners submit that over and above the construction that has been made earlier, new construction is being raised over the said plot of land

without obtaining necessary sanction from the Municipality.

The petitioners allege that the complaint filed before the Maheshtala Municipality has remained unheeded.

Learned advocate representing the respondent no. 7 submits, upon instruction that, the construction was made in the year 2008 on the basis of a plan sanctioned by the Maheshtala Municipality. It has been denied that any new construction is presently made over and above the construction that has been made previously.

It has been submitted that the land in question is not a water body and the private respondent is residing there by making construction for more than fourteen years.

Learned advocate for the Municipality is not ready with proper instruction in the matter.

As it appears that a complaint alleging unauthorized construction is pending consideration at the end of the Municipality and the record-of-rights annexed to the writ petition suggests that the land in question is classified as a Doba, accordingly, the concerned officer of the Mahestala Municipality is directed to consider the complaint filed by the petitioner in accordance with law after giving reasonable opportunity of hearing to all the necessary parties and

to pass a reasoned order and communicate the same to the parties immediately thereafter. The parties will be entitled to rely upon all documents in support of their claim.

The petitioners are directed to forward a copy of the representation alleging unauthorized construction to the aforesaid respondent at the time of communicating the order of this Court.

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 said respondent at the time of consideration of the representation of the petitioners.

The writ petition stands disposed of.

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

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

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(Amrita Sinha, J.)