

Sl. No.ML-132

12.09.2022

Court No.24
B.M.

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

WPA 13085 of 2021

**Tapan Saha & Ors.
Versus
The State of West Bengal & Ors.**

Mr. Arghya Kamal Das
... for the petitioner

Ms. Sutapa Sanyal
Ms. Rajlakshmi Ghatak
... for the State

Mr. Uttam Kumar De
... for the Municipality

Mr. Rajendra Banerjee
... for the respondent nos.9 to 11

The petitioners complain that the private respondents were obstructing the pathway of the petitioners to the water body by constructing a boundary wall.

A representation was filed by the petitioners before the Sub Divisional Officer, Rampurhat Sub Division on 13th January, 2021 which was thereafter forwarded by the Sub Divisional Officer to the Rampurhat Municipality on 18th January, 2021.

The petitioners complain that Rampurhat Municipality has not taken any decision in response to the complaint lodged by them.

Learned advocate representing the Municipality as well as the private respondents submits that in connection with the pathway leading to the water body a Title Suit is pending consideration before the learned Civil Judge, Junior Division, First Court being Title Suit No.43 of 2021 between Indira Kabiraj, Mandira Saha, Basudeb Saha and Gostho Gopal Saha, Pushpendu Saha & Moni Saha. An order of injunction has been passed in the pending Suit.

The Municipality accordingly refrained from entering into the dispute as civil rights of the parties are involved.

It appears from the submissions made on behalf of the petitioners, the private respondents and the Municipality that there are several disputed questions of facts involved in the matter.

A Civil Suit between the parties with regard to the pathway is sub-judice.

The Municipality will not be the appropriate authority to decide the issue of civil right of the parties.

In the event the petitioners are aggrieved, the petitioners will be at liberty to take appropriate steps in the matter before the competent Court of law.

No relief can be granted to the petitioners in the present writ petition.

The writ petition fails and is hereby dismissed.

Information slip provided by the private respondents be retained with the records.

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

(Amrita Sinha, J.)