

Item No. 18

05.12.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 13694 of 2021
Jitendra Investment Private Limited
v.
State of West Bengal & Ors.

Mr. Shakeel Mohammed Akhter
Mr. Neeraj Pandey
... for the petitioner.

Mr. Triptimoy Talukdar
Mr. Shamba Chakraborty
Mr. Abhiraj Tarafdar
Ms. Chanchala Chatterjee
... for the respondent nos. 2 & 3.

The petitioner is aggrieved by the order passed by the Konnagar Municipality on June 23, 2021.

The petitioner claims that the entire property in question was purchased on auction sale and the petitioner is the sole and absolute owner of the said property.

The petitioner contends that the pathway and the drain in the aforesaid premises are for exclusive enjoyment of the petitioner.

The Municipality in the impugned order has opined that for public utility purposes the Municipality has the right to maintain the drain and the public roads within the Konnagar Mouza.

The learned advocate representing the Municipality refers to the record of rights annexed to the

petition to show that some of the pathways were meant for public use.

It has been submitted that the petitioner purchased the property on 'as is where is, whatsoever there is' basis and as the public pathway and drain are recorded in the record of rights, it is the duty of the Municipality to maintain the same.

Whether the pathway and the drain inside the premises recorded in favour of the petitioner are to be treated as public or private cannot be decided by this Court. The same has to be decided upon recording of evidence and not only on the basis of the documents available in the writ petition.

I am of the opinion that it will not be proper for the writ Court to adjudicate the issue.

It will be open for the parties to raise this issue before the appropriate forum for adjudication.

The writ petition stands disposed of.

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.)