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02.08.2022
d.p.

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

W.P.A. 16146 of 2021

**Sri Mounonil Prasad Mitra
-versus
The State of West Bengal & Ors.**

**Mr. Debajyoti Basu,
Ms. Reshmi Mukherjee.
...For the Petitioner.**

**Mr. Rudranil De,
Mr. Manoranjam Mahata.
...For the Municipality.**

The petitioner alleges illegal and unauthorized construction made by the respondent No. 8. The petitioner as well as the respondent no. 8 are relatives.

The land in question is not demarcated and the share of the parties is not divided.

The Ashokenagar Kalyangarh Municipality has conducted an inspection wherefrom it appears that both the parties are guilty of making illegal and unauthorized construction. The Municipality is not in a position to identify the particular areas of the parties where the unauthorized construction has been made as the land is not demarcated.

It appears that the land is possessed by both the parties. The shares are undivided. As the land is not demarcated, accordingly, the Municipality has expressed their inability to take steps against the alleged unauthorized construction.

It appears from the report of the Municipality filed by the Chairman signed on 18th June, 2022 that there exists unauthorized construction at the subject premises.

It will be open for the Municipality to take steps against any unauthorized construction that exists on the said plot of land.

Steps may be taken in the matter strictly in accordance with law, by giving a reasonable opportunity of hearing to the necessary parties at the earliest and the Municipality shall pass a reasoned order and communicate the same to the parties positively within a period of twelve weeks from the date of communication of a copy of this order.

The Municipality shall restrict their action with regard to unauthorized construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

The writ petition stands disposed of.

The instruction given by the Chairman of the Ashokenagar Kalyangarh Municipality signed on 18th June, 2022 be retained with the records.

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

(Amrita Sinha, J.)