

Sl. No.6
28.07.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

W.P.A 18484 of 2021

Sri Ratan Bhattacharya
versus
The State of West Bengal & Ors.

Mr. Biplab Ranjan Bose
... for the Petitioner.
Mr. Tapas Kumar Ghosh
Mr. Tanmoy Chowdhury
... for the respondent no.2
Mr. Partha Pratim Roy
Mr. Souma Bhattacharya
Mr. Atanu Bhattacharya
... for the respondent nos.5, 6,7, 8, 9,
11, 12, 14, 15 & 16
Mr. Malay Singh
Mr. Neelam Singh
... for the State

Learned advocate representing the respondent no.2
has filed his Vakalatnama in the department being filing
No.A-1222 dated 25.01.2022.

Learned advocate representing the respondent
nos.5, 6,7, 8, 9, 11, 12, 14, 15 & 16 has filed his
Vakalatnama in the department being filing No.A-10746
and A-10747 dated 20.06.2022.

The department is directed to tag those
Vakalatnamas with the records of the present case.

The matter relates to a joint property bearing
holding Nos.239/97, 240/97, 241/97, 100/8/1,

100/81/2, 99/81, 102/81/3, under the jurisdiction of the Hooghly-Chinsurah Municipality.

The petitioner, prior to partition being effected between the parties, was one of the co-owners of the aforesaid property.

By order dated 28th September, 2020 the Chairperson, Board of Administrators, Hooghly-Chinsurah Municipality, permitted the owners of the aforesaid premises to start demolition work of the said premises in such a manner to avoid all kind of possibility of accident maintaining absolute security and also protecting damages to the adjoining neighbouring properties and the municipal properties.

According to the petitioner, there are several common and joint areas of the property which has been permitted to be dismantled.

The petitioner further submits that demolition work is being carried out in such a manner that the building standing on the petitioner's holding No.97/79 which is the sole residential unit of the petitioner is being damaged. It has been contended that the building may collapse for not being able to withstand the pressure of the demolition.

It appears that a Civil Suit has been filed by the petitioner against the owners of the aforesaid premises before the learned Civil Judge, Junior Division, First

Court, Hooghly at Chinsurah being Title Suit No.6 of 2021 which is pending disposal.

Apprehension of the petitioner about damage of his personal property was not highlighted before the Hooghly-Chinsurah Municipality. No document has been annexed to the writ petition to suggest that prior to moving the instant writ petition the petitioner approached the Municipality with his grievances.

As the petitioner apprehends that there may be damage to his personal property on account of the demolition work being carried out by the private respondents, accordingly, it will be open for the petitioner to file a comprehensive representation before the Hooghly-Chinsurah Municipality annexing documents in support of his claim.

In the event, such a representation is made, the same shall be taken into consideration by the Municipality in accordance with law, at the earliest, but positively within a period of four weeks from the date of filing representation by the petitioner.

The Municipality shall afford an opportunity of hearing to the petitioner and all other necessary parties prior to taking a final decision in the matter.

The Municipality shall pass a reasoned order and communicate the same to the parties immediately thereafter.

It will be open for the Municipality to inspect the property in question prior to taking a final call in the matter.

Affidavit of service filed in Court is taken on record.

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.)