

10.02.2022
Court No. 19
Item no.05
CP

WPA 21460 of 2021

Santanu Das
Vs.
Midnapore Municipality & Ors.

Mr. Rabindranath Mahato
Mr. Aritra Shankar Ray

..for the petitioner.

Ms. Ahana Sikdar

....for the Municipality.

Mr. Raja Saha
Mr. Amit Kr. Ghosh

....for the State.

Affidavit of service is taken on record.

Despite service, none appears on behalf of the respondent nos. 6 and 7. The matter is disposed of in their absence.

The petitioner has alleged unauthorized construction by the respondent nos. 6 and 7 over a portion of L.R. Plot No. 2040 of Mouza – Ballavpur under the Midnapore Municipality. It is the specific contention of the petitioner that the said construction has encroached into a portion of the private passage of the petitioner.

Ms. Sikdar, learned advocate appearing on behalf of the Midnapore Municipality (hereinafter referred to as 'the municipality'), submits on

instruction that the construction of the respondent nos. 6 and 7 was under the 'Pradhan Mantri Awas Yojana'. That the said construction was according to the model plan approved by the Government. That the municipality does not have any jurisdiction to go beyond ascertaining whether the said construction has been made according to the plan or not. That the allegation of encroachment cannot be gone into by the municipality as the municipality cannot investigate into the title of the petitioner with regard to the alleged passage.

Mr. Saha, learned advocate appearing on behalf of the State, files a report prepared by the Inspector-in-charge, Kotwali Police Station, Paschim Medinipur which is kept on record. It appears from the report that an enquiry was made and prosecution under Section 107 Cr.P.C. has been filed before the appropriate court.

Having heard the learned advocates for the respective parties and having considered the submissions of Ms. Sikdar, the writ petition is disposed of with a direction upon the competent authority of the municipality to intimate the petitioner the fate of his representation dated December 18, 2021.

It is made clear that the question of title and encroachment has not been gone into by this court

and the petitioner is free to pursue his remedies before the appropriate authority as also the appropriate forum, in accordance with law.

The writ petition is, thus, disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)