

16.03.2022
Sl. No. 12
ss

W.P.A. 20038 of 2019

Ramu Manna
Vs.
Department of Urban Development and Municipal
Affairs, Government of West Bengal & ors.

Mr. Supratik Basu
... for the petitioner

Mr. Soumya Banerjee
... for the Kamarhati Municipality

Mr. Sounak Bhattacharya
Mr. Sounak Mondal
... for the respondent nos.7 & 8

This application has been filed challenging failure of the Kamarhati Municipality to grant permission to the petitioner to repair his thatched and tiled shed roof, above the portion occupied by the petitioner in respect of premises no. 8, Amulya Charan Pal Street, Ariadhaha, Kolkata-700057.

It is submitted that the petitioner runs a grocery shop from the said property, after obtaining licence from the concerned municipality. It is further submitted that the portion under the occupation the petitioner has been decreed by a Civil Court in a partition suit. The petitioner's further contention is that the said area falls within the portion allotted to the petitioner in the preliminary decree. Thus, he submits

that the municipality cannot prevent the petitioner from repairing the said portion.

Mr. Sounak Bhattacharya, learned Advocate appearing on behalf of the respondent nos.7 and 8 submits that against the preliminary decree, a first appeal is pending before this Court. He further submits that in view of the order passed in the partition suit and in view of the pendency of the appeal therefrom, the petitioner must approach the first appellate court for leave to repair his portion.

Mr. Soumya Banerjee, learned Advocate appearing on behalf of the Kamarhati Municipality submits that for a temporary repair of a thatched roof, permission from the concerned municipality is not required. The municipality has never objected to any of such repairing work. He further clarifies that any alteration or reconstruction using concrete materials under the garb of repair, however, cannot be permitted by the municipality.

Having heard the rival submissions of the parties, this Court is of the opinion that, as the municipality has not objected to the repair proposed to be made by the petitioner, no further order of this Court is required to be passed, in this writ petition. The petitioner does not have any cause of action against the municipality, at this stage.

If any dispute arises, the petitioner may approach before the appropriate forum.

This writ petition is disposed of. There shall be no order as to costs.

All parties are to act on website copy of this order.

(Shampa Sarkar, J.)