

Item No. 3

17.11.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 7848 of 2020
Sri Rahul Chandra Mahata & Anr.
-vs.-
The State of West Bengal & Ors.
with
CAN 1 of 2022

Mr. Lalratan Mondal
Mr. Avik Kumar Das
Mr. Dilip Kumar Sadhu
... for the petitioners.

Ms. Sudipa Roy
Ms. Aiswarja Joysree
... for the State.

Mr. Biswa Ranjan Bhakat
Mr. Subhasis Sarkar
Mr. Subrata Bhattacharjee
... for the opposite party nos. 7,8 & 9.

Mr. Dhiman Ray
Mr. Dilip Chanda
... for the Raghunathpur Youth Club.

The Chairperson of the Jhargram Municipality Ms. Kabita Ghosh is personally present in Court. Her personal appearance stands dispensed with for the rest of the day.

Application being CAN 1 of 2022 has been filed by one Raghunathpur Youth Club for addition of party as respondent in the writ petition. According to the applicant the “Khelar Math” in question is being possessed by the said club and the same is recorded in the record of rights.

The Court has perused the record of rights in respect of Dag No. 227, J.L. No. 360 wherein the name

of the raiyats are recorded and thereafter it is recorded that Raghunathpur Youth Club is in permissive possession of the said plot of land.

The learned advocate for the applicant submits that the plot in question is a big one and the same is merely been fenced to protect the said land from the hand of the land sharks. The fencing is required to prevent illegal activities being carried on at the said plot of land.

The aforesaid contention of the applicant is denied by the learned advocate representing the petitioners. It has been submitted that no permission was granted to the club for occupying the same. The record of rights in respect of the other dag numbers does not reflect that any possession was granted for possessing the said land.

Learned advocate representing the Municipality submits that pillars have been constructed and iron wire has been used for fencing the land.

Affidavit-of-compliance filed in Court is taken on record.

It has been averred in the affidavit that, to carry out the work of demolition of unauthorized construction surrounding the youth club ground on November 16, 2022 police force was deployed, but despite efforts taken the construction could not be demolished as huge mob gathered at the spot and surrounded the police. To maintain law and order situation the demolition work had been stalled. The police personnel could not do anything against the huge mob which became agitated and ultimately the Municipality team deployed for removal of the unauthorized construction had to leave the place to avoid any untoward incident.

The learned advocate for the Municipality categorically submits that the Municipality is not occupying any land of the petitioner and no construction is being made by the Municipality encroaching the land of the petitioner. On behalf of the club fencing work is being done by the Municipality.

It appears from the submissions made on behalf of the parties that the plots of the petitioner are adjoining each other and they are not demarcated separately. One of the plots has been given permissive possession to the applicant/club. The Municipality is not encroaching or occupying any portion of the land of the petitioner and construction was made by the Municipality on behalf of the club.

In view of the above, as it appears that the primary allegation of the petitioner of unauthorized construction had shifted to the allegation of encroachment, the Municipality will not be the appropriate authority to decide the issue of encroachment and making construction thereon. It will be open for the petitioners to approach the appropriate forum for redressal of their grievances for protection of their private rights.

No further relief can be granted to the petitioners in the instant writ petition.

The writ petition and the connected application stand 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.)