

Item-16 17-01-2022

WPA 9262 of 2020

sg Ct. 19

Babulal Mondal
Versus
South Dum Dum Municipality & Ors.

(Through Video Conference)

Mr. Mukteswar Maity, Adv.

Ms. Manika Sarkar, Adv.

...for the petitioner

Mr. N.C. Bihani, Adv.

Ms. P.B. Bihani, Adv.

...for the Dum Dum Municipality

Affidavit of service is taken on record. Despite service, none appears on behalf of the respondent no.4.

The petitioner has alleged that the respondent no.4 at the instance of some unknown persons and in collusion with a police officer, namely, Jagadish Basu has raised some illegal constructions on a portion of land allegedly belonging to the petitioner at Hatiara Majherpara, C.S. Dag No. 238 and RS Dag No. 412 pertaining to RS Khatian NO.333 in Mouza Gorui, JL No. 16, under the South Dum Dum Municipality.

Mr. Bihani, learned Advocate appearing on behalf of the Dum Dum Municipality submits that allegations are vague, inconclusive and without material particulars. He further submits that the petitioner has alleged encroachment into the land of the petitioner. That the Municipal authorities are not empowered to either decide the question of title or of encroachment. He further submits that without any specification as to the nature and extent of unauthorized construction, such vague and omnibus allegations made in the writ petition cannot be looked into by the Municipality. Proceedings on the basis of such

vague allegations cannot be initiated.

First of all, the question of title of the land over which the alleged construction is being carried on, cannot be decided either in this proceeding or by the Municipality. Secondly, the writ petition does not state why the petitioner perceived the aforementioned construction to be illegal. No complaint has been made to the Municipality alleging that the construction has been made either in the absence of the plan or in deviation of any building rules.

Under such circumstances, the writ petition is disposed of without any mandatory order.

The petitioner is granted liberty to file an appropriate complaint before the Municipality with proper particulars. If such complaint is made, the Municipality shall act and proceed in accordance with law. The question of title, encroachment etc. shall not be gone into by the Municipality. The Municipality, on receipt of the complaint from the petitioner, shall restrict its proceeding to the allegations of unauthorized construction, and proceed with the same in consonance with the principles of natural justice.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Shampa Sarkar, J.)