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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 10879 of 2020
(Assigned)

Partha Dan
Vs.
The State of West Bengal & Ors.

Mr. Dilip Kumar Saila
... For the petitioner.

Ms. Sipra Majumdar,
Ms. Prativa Ghatak
.. For the State.

Mr. Samiran Mondal,
Mr. Abhinaba Dan
... For the Bankura Municipality.

Mr. S. K. Halder,
Mr. A. K. Sarkar
... For the respondent no.5.

The petitioner, a resident of 50, Paddapukur Road, Police Station – Bhawanipore, Kolkata – 700020, alleges that there is illegal construction at premises known as “Ananda Kutir”, situate and lying in municipal holding nos. 4, 104 and 241 in Kenduadihi Mahalla Ward No.5 of Bankura Municipality. On the basis of such allegation, the petitioner is seeking writ in the nature of mandamus directing the Bankura Municipality to take appropriate steps against the private respondents who, according to the petitioner, are making the illegal construction thereat. The nexus between the petitioner, a resident of Bhawanipore, Kolkata, and the property at Bankura

remains unexplained in the writ petition. Despite the matter being adjourned for three occasions spread over more than a month, the petitioner is unable to satisfy the Court as to his right to approach the Court under Article 226 of the Constitution of India to seek a writ in the nature of mandamus. To file and maintain an application under Article 226 of the Constitution of India, the petitioner has to *prima facie* satisfy the Court that he is seeking enforcement of any right conferred by Part-III of the Constitution of India or for any other purpose. Although, not pleaded in the writ petition, the petitioner says that the property in which alleged unauthorized construction has been made is a trust property. The nature of the trust property is also not been brought to the notice of this Court even after several adjournments. Trust is broadly under two categories – Private Trust and Public Trust. In the aforesaid two broad categories of trust there may be sub-categories like Charitable and Religious Trust as also Public Charitable Trust depending on the purpose for which they formed. Without demonstrating the nature of the trust, the petitioner is not entitled to seek any relief as remedies available against a trust is different depending upon its nature. I am, therefor, not inclined to exercise a discretionary and equitable jurisdiction to grant the petitioner any relief as sought for in the facts of the instant case.

The writ petition therefor is devoid of merits and is

accordingly dismissed, however, without any order as to costs.

Since I have not called for affidavits, the allegations contained in the writ petition are deemed to have not been admitted by the respondents.

(Arindam Mukherjee, J.)