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19.12.2022
d.p.

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

W.P.A 3386 of 2022

**Rithvik Bhattacharjee @ Rithik Bhattacharjee
-versus
The State of West Bengal & Ors.**

**Mr. Joyjit Chadudhury,
Mr. Kamlesh Jha,
Mr. Debasish Mukhopadhyay,
Mr. Anirban Banerjee,
Ms. Jeenia Rudra.
...For the Petitioner.**

**Mr. Deborshi Dhar.
...For the Siliguri Municipal
Corporation.**

**Mr. Lalit Mohan Mahato,
Mr. Supratim Dhar.
...For the State.**

Affidavit-of-service filed in Court today is taken on record.

The prayer of the petitioner for surveying the property in question in the presence of the competent person from the office of the District Land and Land Reforms Officer, Darjeeling is pending consideration at the end of the Siliguri Municipal Corporation.

The Court in the earlier writ petition filed by the petitioner being WPA 2826 of 2022 with CAN 1 of 2022, on 11th November, 2022 directed the respondent No.2 i.e. the Commissioner of Siliguri Municipal Corporation to consider the representation filed by the petitioner on 29th October, 2022.

Though a date of hearing was fixed by the Corporation but the hearing has not taken place as yet.

The allegation against the petitioner is that he is making construction by encroaching the municipal drain.

The petitioner denies the said allegation and submits that the boundary wall was there in place for nearly 40 years. The same got damaged and the petitioner intends to reconstruct the same.

The petitioner in the representation has sought for a survey to be conducted to ascertain as to whether the construction is being made over the government land or not.

To arrive at a decision as to whether the petitioner was actually making construction over his private land or by encroaching the municipal drain, a joint survey will be an appropriate one.

Learned advocate appearing for the Siliguri Municipal Corporation submits that 23rd December, 2022 is the date re-fixed for hearing the prayer of the petitioner.

Accordingly, the petitioner is directed to remain present in the hearing scheduled on 23rd December, 2022.

The Commissioner of the Corporation shall take into consideration the prayer of the petitioner for a joint survey to be conducted in the presence of the petitioner, the Siliguri Municipal Corporation and the

representative of the District Land and Land Reforms Officer, Darjeeling.

A reasoned order shall be passed and intimated to the petitioner by the Commissioner at the earliest, but positively by 6th January, 2023.

The Court in the earlier writ petition already granted relief to the petitioner to construct fencing by bamboo. The petitioner will be at liberty to proceed with the same.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)