

Item No.4

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

09.02.2023
Ct-24

WPA 3121 of 2023
Krishnapada Gayen

v.

The State of West Bengal & Ors.

Mr. Saptarshi Kumar Kundu
Mr. Raju Das
... for the petitioner.

Mr. Rajarshi Basu
Mr. S.T. Mina
... for the State.

Mr. Partha Pratim Roy
Mr. Anirban Das
... for the respondent no. 9.

The petitioner alleges that the private respondents are making illegal and unauthorized construction over the joint property without obtaining sanction from the Baruipur Municipality.

It has been submitted that a suit for partition is pending in between the parties and during pendency of the partition suit the parties to the suit ought not to change the nature and character of the suit property.

Learned advocate representing the private respondent no. 9 submits that the construction is being made in accordance with the sanction granted by the Baruipur Municipality on July 2, 2022.

It has been submitted that in the pending suit an order of injunction has been passed restraining the petitioner herein from changing the nature and character of the suit property. There is no order restraining the private respondents herein from changing the nature and character of the suit property.

It has been submitted that the construction is being made in accordance with the plan sanctioned.

Upon hearing the parties it appears that the construction alleged of is being made pursuant to a plan which has been sanctioned by the Municipality. If the petitioner is aggrieved by the act of the private respondents in raising construction over the joint property, the petitioner ought to have approached the appropriate forum for relief.

In the present proceeding the Court is only concerned as to whether construction is being made in accordance with law.

It appears that a plan has been sanctioned in favour of the private respondents and it has been submitted that the construction is being made in accordance with the said plan. Accordingly, there is no scope for interference in the matter.

The writ petition fails and is hereby dismissed.

Dismissal of the writ petition will however not stand in the way of the petitioner to approach the appropriate forum for relief, if so advised.

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.)