

23-02-2023
Item No.3
Subrata
Bhattacharyya

IN THE HIGH COURT AT CALCUTTA
Constitutional writ Jurisdiction
Appellate Side

WPA No.3870 of 2023
Sudhir Kumar Pal & Ors.
-vs-
State of West Bengal & Ors.

Mr. Debabrata Saha Roy
Mr. Pingal Bhattacharyya
Mr. Rajdeep Sinha ...for the petitioners

Ms. Jhuma Chakraborty
Mr. Aritra Ghosh ...for the State

Mr. Jayanta Kumar Das ...for respondent no.3

Mr. Debasish Das ...for the private respondent

The petitioners are aggrieved by the act of Egra Municipality in taking steps to sanction a building plan in favour of the private respondent, the seventh respondent herein, despite the fact that the title of the private respondent is disputed.

It has been submitted on behalf of the petitioners that a civil suit being Title Suit No.197 of 2022 between the petitioners and the private respondent is pending consideration before the learned Civil Judge (Junior Division), 2nd Additional Court, Contai, Purba Medinipur. According to the petitioners, till the municipality is satisfied with the clear title of the applicant who applied for sanction of the building plan, the municipality ought not to have sanctioned the same.

It has also been submitted that the plan was sanctioned in favour of the private respondent in compliance of an order dated January 4, 2023 in WPA No.21966 of

2022 filed by the private respondent wherein the private respondent did not implead the petitioners as parties and has deliberately suppressed the fact of pendency of the aforesaid civil suit challenging the title of the private respondent.

Prayer has also been made in the writ petition for setting aside the sanctioned plan granted in favour of the private respondent and to pass an order of stay of the sanctioned plan issued in favour of him.

On the other hand, learned advocate representing the private respondent submits that the record of rights has been updated in favour of the private respondent, and that the municipality, upon consideration of the plan proposal submitted by the private respondent, sanctioned the building plan in question.

It has further been submitted that the petitioners failed to obtain an order of injunction in the pending civil suit and have thus approached this Court for relief. The private respondent also submits that there is no dispute with regard to the title of the property, and that the construction ought not to wait till the disposal of the suit which may take a considerable of period of time.

Upon hearing the parties, it appears that the issue of title with regard to the subject property is pending consideration before the learned Court below. The municipality considered the plan proposal filed by the private respondent and sanctioned the same in accordance with law.

If the petitioners are at all aggrieved by the fact of making construction by the private respondent over the disputed plot of land, then necessary steps ought to have

been taken by them to approach the learned Court below for obtaining restraint order upon the private respondent to proceed any further with the construction work.

It will not be proper for either the writ Court or the Municipality to enter into or decide the title of either of the parties.

As there is no order as on date restraining the municipality or the private respondent with regard to the construction work, accordingly, no relief can be granted as prayed for by the petitioners.

It will be open for the petitioners to approach the learned Court below seeking necessary relief.

The writ petition stands disposed of. No order as to costs.

Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J.]