

Item No.30

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

07.12.2023
Ct-24

WPA 7947 of 2023
Sri Anil Kumar Pramanik & Ors.
v.
The Bally Municipality & Ors.

Mr. Purnasish Gupta
Mr. Jayanta Kumar Mukherjee
... for the petitioners.

Mr. Ayan Banerjee
Ms. Debasree Dhamali
... for the Bally Municipality.

The petitioner alleges encroachment by the private respondent at the time of making construction.

It has been submitted that a civil suit is pending consideration before the learned Court below and an order of status quo has been passed. The petitioner thereafter filed report before the Bally Municipality and alleges that the same is pending consideration.

The writ petition could not be served upon the private respondent no. 2 as the postal envelope has returned unserved with the postal endorsement 'Addressee left without intimation.'

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

Upon hearing the parties I am of the view that the issue of encroachment ought not to be decided by the Municipality. There may be disputed question of facts as regards measurement of the subject plot. As a civil suit is pending consideration before the learned Civil Court,

accordingly, it will be open for the parties to take necessary steps in accordance with the order passed by the learned Civil Court.

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.

Sh

(Amrita Sinha, J.)