

15.05.2023
Court No.13
Item No.31
AP

WPA 10447 of 2023

**Tapan Kumar Bhunia and Anr.
Vs.
The State of West Bengal and Ors.**

Mr. Debabrata Saha Roy
Mr. Subhankar Das
Mr. Neil Basu
Mr. Sankha Biswas

... For the Petitioners.

Mr. Amitesh Banerjee
Mr. Tarak Karan

... For the State.

Mr. Sumitava Chakraborty

... For the Respondent No.5.

1. The petitioners claim that the private respondent is preventing them from entering into the property. Reference has been made to a decision of a Coordinate Bench of this Court in WPA 23873 of 2022 (Tapan Kumar Bhunia & Anr. Vs. The Kolkata Municipal Corporation & Ors.). Indeed an unauthorized construction on the property has since been demolished under the order of a Coordinate Bench.

2. It appears from the submissions of the State and the private respondent that there are two civil suits being TS No.84 of 2007, which are now pending before the learned 5th Special Judge, Alipore and TS No.191 of 2015, which is now pending before the 1st Munsif Court, Alipore.

3. The aforesaid suits have been filed by the petitioners in respect of the property against the private respondent. Orders of injunction have been vacated.

4. By reason of suppression of the aforesaid material facts, this Court is of the view that the petitioners are not entitled to acquittal relief or any relief under Article 226 of the Constitution of India.

5. With the aforesaid observations, the writ petition shall stand dismissed.

6. There shall be no order as to costs.

7. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)