

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 12548 of 2022

**Nipen Pradhan & Ors.
-versus
The State of West Bengal & Ors.**

**Mr. Uday Narayan Betal.
Mr. Somnath Adhikary
...For the Petitioners.**

**Mr. Soumyajit Das Mahapatra.
Ms. Madhurai Sinha.
...For the respondent nos. 10 to 20.**

**Mr. Sujoy Bandyopadhyay.
Mr. Jagahyoti Das,
Mr. Shambhu Mahato.
Mr. Pradipta Siddhanta.
... For the Municipality.**

**Mr. Pran Gopal Das
... For the respondent nos. 8 & 9.**

The grievance of the petitioners is that the Municipality, with the impression that 16 feet wide road is a public road, sanctioned plan in favour of the private respondent nos. 8 and 9.

The submission of the petitioners and the proforma respondents is that there is strip of land in between the land of the respondent nos. 8 and 9 and the 16 feet wide road which belongs to the proforma respondents. The Municipality could not have sanctioned building plan in favour of the private respondent nos. 8 and 9 by infringing upon the strip of land of which the proforma respondents are the owners. There is no direct connectivity between the land of the private respondents and the common passage to get

access to the land of the private respondents, one has to cross the private land of the proforma respondents.

The Municipality is directed to cause a spot inspection upon prior notice to all the parties to ascertain facts as to how sanction could have been granted by showing the disputed road as a passage or way of ingress and egress of the private respondents.

The report of spot inspection shall be circulated amongst the parties and an opportunity of hearing shall also be granted to all the necessary parties. If after spot inspection and upon hearing the parties, the Municipality opines that any remedial measures are required to be taken, then the same shall be taken by the authority.

It is made clear that the Municipality shall not decide the issue of ownership of the disputed passage as the same is pending consideration in the Civil Suit but will adjudicate as to whether the plan could have been sanctioned by showing the private land of the proforma respondents as the ingress and egress to the property of the private respondents.

Steps shall be taken in the matter at the earliest but positively within a period of twelve weeks from the date of communication of this order.

It will be open for the Municipality to seek police protection at the time of inspection, if necessary.

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.)