

Item No.14(ml)

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

06.02.2023
Ct-24

WPA 12764 of 2019
Sri Sisir Kumar De

v.

The Hooghly Chinsurah Municipality & Ors.

Mr. Debasis Sur
Mr. Hare Krishna Halder
Mr. Mimadri Shekhar Paul
... for the petitioner.

Mr. Tapas Kumar Ghosh
Mr. Tanmoy Chowdhury
... for the respondent nos. 1 to 3.

None appears on behalf of the private respondents despite service of notice.

It appears that the private respondents are obstructing the construction of a drain from the private land of the petitioner to the municipal drain.

According to the private respondents a drain already exists from the petitioner's property to the municipal drain and as such there is no requirement of construction of a further drain.

Issue has been raised with regard to the ownership of the land under which the pipeline is to be laid. According to the private respondents, the land beneath which the pipeline will be laid for connecting the private drain of the petitioner to the municipal drain is a common passage.

Learned advocate representing the petitioner refers to the report filed by the Hooghly Chinsurah

Municipality upon spot inspection. It appears therefrom that there is a private drain in the premises of the petitioner but no drain has been found outside the boundary wall of the petitioner. The private drain which exists within the petitioner's boundary is not connected with any public drain.

It appears from the submissions made on behalf of the petitioner and the Municipality that the ownership of the land under which the pipeline will be laid is under a cloud. A Title Suit No. 51 of 2019 at the instance of the petitioner is pending consideration before the learned Civil Judge (Junior Division), 1st Court, Hooghly.

It will not be appropriate at this stage to direct the Municipality to permit the petitioner to make construction of the drain more so because the Municipality has categorically submitted in Court that the land under which the pipeline will be laid is not a public land but private land. Till the ownership of the land under which the pipeline will be laid is not adjudicated and decided by the competent Court, the petitioner cannot be permitted to lay the pipeline underneath the same.

In view of the above, it will be open for the petitioner to approach the learned Civil Court for necessary relief.

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.

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(Amrita Sinha, J.)