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Ct No24
AGM

28.06
2023

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

WPA 14405 of 2023

**Azimganj Nimtala Ghat Mallar Samity & Ors.
Vs
The State of West Bengal & Ors.**

**Mr. S. K. Roy
Mr. Baidurya Ghosal
Ms. Atrayee Dutta
Mr. A. Banerjee
Ms. Avipsa Dutta Roy**

... for the Petitioners.

**Mr. Anindya Lahiri
Ms. Pranati Das**

... For the respondent no. 8.

**Sk. Md. Galib
Mr. Gourav Das**

... for the State.

The petitioners are aggrieved by the order dated 1st February, 2019 passed by the Department of Urban Development & Municipal Affairs declaring Neemtala Ghat under the jurisdiction of the Jiaganj-Azimganj Municipality as a municipal ferry.

The petitioners claim to be the owners of the land over which the ferry is running.

An objection on behalf of the petitioners through their legal representative was filed before the department in March 2019 objecting to the declaration of the said ghat as municipal ferry. No response has been received after the said objection

was filed.

The immediate cause of action for filing the instant writ petition is a notice inviting E-auction published by the Jiaganj-Azimganj Municipality inviting application from eligible participants for running the ferry ghat. The last date for filing the E-auction is 30th June, 2023.

The petitioners contend that for time immemorial the ferry ghat was being run and operated by the petitioners.

The petitioners have relied upon the title deeds in respect of the said land in support of the submission that the land is the private land of the petitioners. Further submission is that compensation as mentioned in Section 132(3) of the West Bengal Municipal Act, 1993 has neither been assessed nor paid to the petitioners on account of declaration of the private ghat of the petitioners as municipal ferry.

The petitioners pray for a direction upon the respondents not to give any effect or further effect to the notice inviting tender and for setting aside the order declaring the Neemtala Ghat as a municipal ferry ghat.

The prayer of the petitioners is opposed by the learned advocate representing the State respondents and the Municipality.

It has been submitted that the order in question declaring municipal ferry was passed way back in the year 2019. The petitioners did not follow up with the objection allegedly filed in March, 2019. It is only after the auction notice has been published that the petitioners have approached the Court for relief.

It has been submitted that the ghat has been declared as municipal ferry ghat in terms of the provisions of Section 132 (2) of the Act. The same is permissible in law. If the petitioners are at all aggrieved the petitioners can at best pray for compensation from the competent authority. No such application/prayer has been made seeking compensation till date.

The title deeds annexed in the writ petition has been referred to by the learned advocate representing the respondents. It has been mentioned that in none of the deeds there is any mention of the river by the side of the land. As a ferry is running, it is implied that one side of the land will be a river. The same is not appearing from the schedule of the title deeds.

It has been submitted that the petitioners did not pay any taxes or toll to the municipality and, accordingly, the municipality is losing revenue everyday.

Prayer has been made for dismissal of the writ

petition.

I have heard the submissions made on behalf of the parties. It appears that the ghat in question has been declared as municipal ferry ghat long back. The petitioners did not follow up with the objection filed against such declaration.

Moreover, the provision of Section 132 of the Act permits the Government to declare ghats as municipal ferry ghats. In the event the persons are entitled to compensation, then necessary request/application ought to have been made before the concerned authority. The same is yet to be filed by all on behalf the petitioners.

The grievance of the petitioners with regard to the declaration of the ferry as municipal ferry does not appeal to the Court. Accordingly, the Court is not interfering with the impugned order dated 1st February, 2019 with regard to the declaration of Neemtala Ghat as a municipal ferry.

It will be open for the petitioners to seek compensation in accordance with law, if they are so entitled to.

A dispute has been raised with regard to the ownership of the land in question. It is for the petitioners to apply before the competent authority for declaration of right in respect of the said land.

The Municipality has already floated a tender.

If the petitioners are interested to participate in the tender process then it will be open for the petitioners to file necessary application provided they are eligible to do so.

If application is filed in response to the tender notice, the same shall be considered by the authority in accordance with law.

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.)