

10
05.10.2023
d.p.

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

W.P.A 16088 of 2023

**Partha Ghosh & Ors.
-versus
The State of West Bengal & Ors.**

**Mr. Arindam Chattopadhyay,
Ms. Lipika Chatterjee.
....For the Petitioners.**

**Ms. Sonal Sinha,
Mr. Abhishek Banerjee.
...For the State.**

**Mr. Sunil Gupta,
Mr. Hasibul Islam.
...For the Respondent No.2.**

**Mr. Partha Pratim Roy,
Mr. Anirban Das.
...For the Added Respondent.**

The sanctioned plan for raising construction granted in favour of the father of the petitioners stood expired.

Application seeking extension of the sanctioned plan at the instance of the petitioners being the heirs and legal representatives of the deceased in whose favour the plan was sanctioned, was considered and rejected by the Murshidabad Zilla Parishad.

The petitioners are aggrieved by the same.

Upon hearing all the parties and upon perusal of the materials on record, it appears that the ownership of the land in question is under a cloud.

The petitioners have filed a suit seeking declaration and permanent injunction in respect of the subject land which is pending consideration before the Learned Court below.

Learned advocate appearing for the intervenors who were impleaded as private respondents in the earlier writ petition filed by the petitioners submits that the land is a 'Debottar' property and permission ought not to be granted in favour of the petitioners for raising construction thereon.

Learned advocate appearing for the Murshidabad Zilla Parishad submits, upon instructions that, till the issue of ownership is decided, the Zilla Parishad will not be in a position to sanction plan in favour of any party.

Records reveal that the plan in question was sanctioned in February 2020 and till date construction has not been commenced. There are several disputed questions of facts involved in the present writ petition.

It will not be proper for the writ court, at this stage, to issue a writ of mandamus directing the Zilla Parishad to renew the plan or to grant sanction in favour of the petitioners for raising construction.

In view of the above, no relief can be granted to the petitioners in the instant writ petition.

The writ petition fails and is hereby dismissed.

It will be open for the petitioners to raise all issues before the Learned Court below where the suit is pending consideration.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)