

Item No.233 & 272(ml)

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

01.02.2023
Ct-24

WPA 21313 of 2021
Sakila Khatun & Anr.

v.

The State of West Bengal & Ors.

With

WPA 946 of 2022
Md. Akbar & Ors.

v.

Chandarnagore Municipal Corporation & Ors.

Mr. Bikash Shaw

...for the petitioners in WPA 21313 of
2021 & respondent no. 4 in WPA 946
of 2022.

Mr. Kajal Roy

... for the petitioner in WPA 946 of 2022 &
for the private respondent in WPA 21313
of 2021.

Mr. Lalit Mohan Mahata

Mr. Rudranil De

... for the State in WPA 21313 of 2021.

Mr. Suman Basu

Mr. Gaurav Dutta

... for the Municipality.

The petitioners in WPA 21313 of 2021 seek
implementation of the order passed by the
Chandannagar Municipal Corporation on September 2,
2021 directing the private respondents to restore the
water body to its previous state.

In WPA 946 of 2022 the petitioners challenge the
order dated September 2, 2021 claiming that the land in
question is a 'Bastu' land and not water body.

Both the parties refer to different documents in connection with the classification of the land. It appears therefrom that in one place the land is described as 'Bastu' and in another, a portion of the land, has been recorded as 'Pond.'

To properly ascertain as to whether the land in question is a water body or not, a spot inspection is required to be conducted and the relevant records are required to be consulted by the Chandannagar Municipal Corporation.

Accordingly, the Chandannagar Municipal Corporation is directed to cause a spot inspection of the land in question upon prior notice to all the parties.

The report of spot inspection shall be served upon both the parties. An opportunity of hearing shall be given to both the parties to produce relevant documents in support of their claim.

In the event, it transpires that the land in question is a water body, then necessary steps shall be taken to restore the same to its original state.

If it ultimately transpires that the land in question is not a water body, then the Corporation shall update its records by mentioning the proper description and classification of the land in question to avoid any future legal complications in the matter.

The aforesaid exercise shall be concluded by the Chandannagar Municipal Corporation at the earliest but positively within a period of twelve weeks from the date of communication of a copy of this order.

The Officer-in-Charge, Chandannagar Police Station has filed a report wherefrom it appears that proceedings were initiated against the writ petitioners in both the writ petitions and charge-sheet has been filed against the petitioners of both the writ petitions.

Both the writ petitions stand 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.)