

19.09.2023
Item No.7
gd/ssd

WPA(P)/485/2023
SRI SUDHANSHU SEKHAR DHAR
VS
STATE OF WEST BENGAL AND ORS.

Mr. Guddu Singh,
Ms. Soma Chakraborty
..for the Petitioner.

Ms. Sima Adhikari,
Ms. Kakali Naskar
..for the State.

Mr. Sankha Subhra Ray
..for Kamarhati Municipality.

Mr. Tanmoy Mukherjee,
Mr. Souvik Das,
Mr. Anirban Saha Ray
..for the Respondent Nos.6 and 7.

1. The petitioner, who is a co-sharer of the property in question, after having developed his share of the property has now come forward with the present writ petition alleging that his erstwhile co-sharers, namely, the private respondent nos.6 and 7 are trying to fill up a water body, the land which has been classified as Pukur. As could be seen from the schedule of the property as mentioned in MP Case No.3323 of 2022 on the file of the Executive Magistrate at Barrackpore the property in question is partly Bastu and partly Pukur situated at Dag No.799 (Bastu) and Dag No.797 (Pukur).

2. The allegation of the writ petitioner is that the 6th and 7th respondents are attempting to fill up the Pukur land and put up construction.

3. This allegation is emphatically denied by the learned advocate appearing for the 6th and 7th respondents and it is submitted that planning permission has been obtained from the respondent Municipality only in respect of the land which has been classified as Bastu in Dag No.799 and no part of the land classified as Pukur is being proposed to be used for the purpose of construction.

4. The learned advocate appearing for the respondent/Municipality submitted that the Assistant Engineer who visited the spot is not able to clearly demarcate the area as to which is the water body and which is the Bastu land since industrial unit was functioning in the said property. So far as demarcation is concerned, Municipality should seek the assistance of the revenue authorities who will be able to measuring the property and demarcate boundary of the Bastu land and boundary of the Pukur land.

5. The petitioner, in our prima facie opinion, does not appear to be a genuine public interest litigant as he had certain personal interest in the property in question as he was an erstwhile co-sharer of the very same property.

6. Be that as it may, the respondent/Municipality shall ensure that no construction is being put up by the 6th and 7th respondents in the land which is classified as Pukur. In the event there is any problem in identifying the land which has been classified as Pukur, the Municipal authority shall seek the assistance of the revenue authorities and if such assistance is sought for, the concerned revenue authority shall extend full cooperation to the Municipal authority for the purpose of measuring and demarcating the land in question.

7. With the above directions, the writ petition stands disposed of.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)