

19.09.2023
Item No.11
gd/ssd

WPA(P)/490/2023

MAYARANI RANA AND ORS.
VS
STATE OF WEST BENGAL AND ORS.

Mr. Allen Felix
..for the Petitioners.

Mr. Amal Kr. Sen,
Mr. Jaladhi Das
..for the State.

Mr. Subhasis Bandopadhyay
..for the Municipality.

Mr. Avirup Chatterjee
..for the Respondent No.9.

1. The apprehension of the petitioners is that the private respondent, namely, the 9th respondent is attempting to fill up a water body and has constructed a boundary wall.

2. Admittedly, the land in question has been classified as a pond in the mouza map and the mother of the 9th respondent is the registered land owner and it is a case of the 9th respondent that the local public are illegally dumping garbage in the land, as a result of which, the pond is getting filled up and they wanted to construct boundary wall since part of the boundary

wall which was already in existence have been broken down.

3. In this regard a writ petition was filed in WPA 17114 of 2023 requesting for police protection to enable the 9th respondent to put up the boundary wall. The said writ petition was disposed of by order dated 27.07.2023 permitting the land owner to erect the boundary wall and the police were also directed to maintain strict vigil to ensure that no breach of peace takes place in the locality.

4. The learned advocate appearing for the 9th respondent would submit that there is no conversion of the land from the status of the water body and it is being preserved as a water body and the boundary wall has been erected only for the purpose of protecting the property since the local public are dumping garbage in the property.

5. It goes without saying that as long as land has been classified as a pond in the mouza map without prior permission under the relevant statute, there can be no change of user. However, the erection of the compound wall by the 9th respondent cannot be prevented since the owner of the property is entitled to protect the property from encroaching.

6. The above direction be complied with within a period of six weeks from the date of receipt of the server copy of this order.

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

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)