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24.03.2023
d.p.

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

W.P.A 22655 of 2022

**Sri Ram Prajapati
-versus
The State of West Bengal & Ors.**

**Mr. Abhisek Banerjee.
...For the Petitioner.**

**Mr. Sandipan Banerjee,
Mr. Ankit Sureka,
Mr. Sobhan Majumder.
...For HMC.**

**Mr. Srikantha Paul.
...For the State.**

**Mr. Animesh Paul.
...For the Private Respondents.**

The petitioner claims that the place where the construction is being made in an unauthorized manner by the private respondents is a public road maintained by the Municipality.

The aforesaid contention of the petitioner is denied by the learned advocate representing the private respondents and the learned advocate representing the Howrah Municipal Corporation.

A report has been filed before this Court signed by the Assistant Engineer and the Executive Engineer (Roads), Howrah Municipal Corporation on 1st February, 2023.

The engineers of the Corporation were of the opinion that the road appears to be a common passage and not municipal road. The private respondents fixed some iron angles of approximately 2.5' height over the ground to save the existing wall from falling down.

As it appears from the documents available on record and the submissions made on behalf of the parties that the road in question is not a public road, the allegation of encroachment at the instance of a private party ought not to be adjudicated by the Howrah Municipal Corporation. The private disputes between the parties ought to be decided by the competent civil Court.

The parties will be at liberty to ventilate their grievances before the appropriate civil forum, if so advised.

The Officer-in-Charge, Golabari Police Station has forwarded a report signed on 14th November, 2022 mentioning that a civil case being Title Suit No.1245 of 2022 is pending consideration before the Learned Civil Judge, Junior Division at Howrah. The said report is taken on record.

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.)