

08.12.2023
Item No.11.
Court No.6.
AB

**M.A.T. 2301 of 2023
With
CAN 1 of 2023**

**The Administrator, Haldia Municipality & Ors.
Vs
Pranab Kumar Dhara & Ors.**

Mr. Debajyoti Basu,
Mr. S. M. Hassan,
Mr. Diptomoy Talukdar,
Mr. Dibyendu Ghoshfor the Appellants.

Mr. Arijit Pradhan,
Mr. Banibrata Duttafor the Respondents/
Writ Petitioners.

Mr. Lalit Mohan Mahata,
Mr. Ziaul Haquefor the State.

An order dated October 12, 2023, passed by a learned Judge of this Court in WPA 13898 of 2015, being a writ petition filed by the respondent nos.1 to 5 herein, is under challenge in this appeal, at the instance of the Haldia Municipality.

The writ petitioners had approached the learned Single Judge alleging unlawful construction by the Municipality encroaching upon the land of the writ petitioners.

The learned Judge called for reports from Officers in the Administration. Upon considering such reports, the learned Judge concluded that the Municipality has encroached upon the land of the writ petitioners. The learned Judge directed demolition of

a boundary wall that the Municipality had raised to demarcate its land from the land of the writ petitioners and to protect its own properties. The Municipality partly demolished the wall out of deference to the order of the learned Judge so that the writ petitioners may not have any further alleged grievance regarding lack of access to their land.

On October 12, 2023, when the matter came up again before the learned Judge, the Municipality was directed to demolish the entire boundary wall. The learned Judge observed that “demolition of 70 ft. of the said boundary wall is not adequate to give free access to the land of the petitioners.....”.

The learned Judge also observed that the report of the concerned Block Land and Land Reforms Officer “goes to show that Haldia Municipality illegally and without any authority of law encroached the aforesaid land of the petitioners by erecting boundary wall and using 20 ft. wide iron gate”.

We have seen the report of the concerned Block Land and Land Reforms Officer. It does not appear anywhere in the report that the Municipality has encroached upon the land of the writ petitioners. That apart, questions of encroachment and title ought not to be considered by the Writ Court. The Writ Court is not well equipped to adjudicate such issues. Such disputes of civil nature should be taken before the appropriate Civil Court. The Civil Forum can decide

such issues conveniently upon recording proper evidence and local inspection, if necessary.

We are of the considered view that the writ petition ought not to have been entertained by the learned Single Judge. We, therefore, allow this appeal and set aside the order impugned in this appeal. Consequently, the connected application stands disposed of.

Since no affidavit has been called for, the allegations made in the stay petition are deemed not to be admitted by the respondents.

We also dismiss the writ petition being WPA 13898 of 2015 by withdrawing the same to this Bench and treating the same as on day's list.

This will not prevent the writ petitioners from approaching the appropriate Civil Forum in accordance with law to ventilate the grievance that they have against the Municipality, if they are entitled to do so in law.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after compliance with all the necessary formalities.

(Arijit Banerjee, J.)

(M. V. Muralidaran, J.)

