

Item No.10+11

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

19.04.2023
Ct-24

WPA 25283 of 2022
Pallab Sarkar

v.

The State of West Bengal & Ors.
with

WPA 27873 of 2022
Sudhangshu Sekhar De

v.

The State of West Bengal & Ors.

Mr. Robiul Islam

Sk. Jayeed Hossain

... for the petitioner in both the matters.

Mr. Jahar Datta

Mr. Benazir Ahmed

... for the State in WPA 25283 of 2022.

Mr. Sujan Bandyopadhyay

Mr. Shambhu Mahato

Mr. J. Das

Mr. Pradipta Siddhanta

... for the Municipality in both
the matters.

Mr. Moloy Krishna Dey

Ms. Ananya Neogi

... for the State in WPA 27873 of 2022.

Mr. Rabindranath Mahato

Mr. Aritra Shankar Roy

... for the private respondent nos. 6, 7 & 8
in both the matters.

Pallab has filed the writ petition praying for a direction upon the Municipality to withdraw/cancel the sanctioned plan granted in favour of the private respondents. Specific contention of Pallab is that the quantum of land mentioned in the plan is incorrect. The

area upon which the plan has been sanctioned has been erroneously mentioned.

Sudhangshu has filed the writ petition praying for a direction upon the Municipality to take steps against the unauthorized construction made at the behest of the private respondents.

Be it noted that the private respondents are the same in both the writ petitions.

The petitioners argue that the area of the land on physical measurement and the area in accordance with the title deeds are different.

It has been submitted that according to the deeds, the quantum of land is less. The private respondents have obtained sanction on a larger area of land. It has further been contended that the construction is being made in deviation of the plan sanctioned.

Learned advocate representing the private respondents denies the allegation of the petitioners. It has been submitted that the area of land in accordance with the title deed and physical measurement are the same but the figure does not tally with the record-of-rights. It has been submitted that construction is being made in accordance with the plan sanctioned and the minor deviation which was detected has been rectified.

As per the direction passed by the Court a report was filed by the SRO-II and the Revenue Officer & Technical Advisor dated February 28, 2023 wherein the figures of the land in question, the area over which sanction was granted and the extended part of the construction have been mentioned.

The petitioners and the private respondents both are dissatisfied with and disputes the figures mentioned in the report.

It appears that the said report was prepared upon conducting a spot inspection with notice to the parties. An exception has been filed by the petitioners to the said report.

Upon perusal of the documents placed before this Court and upon hearing the submissions made on behalf of all the parties it appears that the root of the issue is the quantum of land. The parties have disputes with regard to the area of land occupied.

Neither the Municipality nor the State respondents will be the appropriate body to decide the issue. There are several disputed questions of facts which cannot be decided by the writ Court. Evidence is required to be adduced to come to a conclusion with regard to the quantum of land held by the parties.

In view of the above, both the writ petitions stand disposed of by granting liberty to the petitioners to approach the appropriate forum for declaration of their rights.

The Municipality will only ensure that no unauthorized construction is carried out at the subject premises.

Be it recorded that T.S. No. 44 of 2021 has been filed by Sudhangshu against the private respondents and the State authorities. The said Suit is pending consideration.

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.)