

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

WPA 28569 of 2023

**Mrs. Zarina Reshma & Ors.
-versus
The State of West Bengal & Ors.**

**Mr. Partha Pratim Roy,
Mr. Dyutiman Banerjee,
Ms. Poulami Chakraborty.
...For the petitioners.**

**Mr. Arjun Roy Mukherjee,
Ms. Tuli Sinha.
...For the State.**

**Mr. Abhratosh Majumdar, Sr. Adv.
Mr. Sayan Sinha,
Mr. Kausheyo Roy,
Mr. Soham Kumar.
...For Baruipur Municipality.**

The petitioners are aggrieved by the notice inviting e-tender dated 2nd December, 2023 floated by the Municipality for construction of underground D.W.C pipe drain.

The petitioner submits that the land over which the said underground pipe drain will be constructed belongs to the petitioners. Reference has been made to an order dated 12th June, 2023 passed by a coordinate Bench of this Court in WP No. 26476 of 2017 wherein the Court recorded that the Baruipur Municipality has two options left – (i) to take steps for purchase of the land from the petitioners and (ii) to return the land to the petitioners since acquisition proceeding under the 1948 Act lapsed long ago. The writ petition appears to be pending till date.

It has been submitted by the learned advocate representing the Municipality that the kuchcha drain is

already functional. In view of the rise in the number of vendors in the market place, the drains are getting clogged up. In the interest of the general public the construction of underground pipe drain is required to be undertaken by the Municipality.

It has been submitted that public convenience is required to be taken into consideration prior to protecting the private interest of the petitioners.

It appears from the submission made on behalf of the parties that the issue of acquisition of the said land is still under consideration before this Court. In the event the issue is decided in favour of the petitioners and the acquisition proceeding is set aside, then the petitioners remain the owner of the land. If the requiring authority is able to obtain order for retaining the said land, then the pipeline will remain as a public utility service and not as the private land of the petitioners.

In the interest of justice, the tender is not being interfered at this stage. It is recorded that the laying of the pipe drain will not infringe the ownership of the land in question. None can claim equity or ownership right over the land by virtue of laying the pipe drain. Ownership of the subject land will be decided by the appropriate Court in an appropriate proceeding.

The manner in which the tender notice has been floated implies that the place is a municipal market. The same is not so. The issue of ownership is under a cloud. Learned advocate representing the Municipality submits that a corrigendum will be issued to delete the word 'pouro' from the tender notice.

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.)