

03. 20.04.2023
bd. Ct.15

W.P.A. 33383 of 2014

Arun Kumar Das

-vs-

The State of West Bengal & Ors.

Mr. Swapan Kumar Nandi

Mr. Debjyoti Ghosh

Mr. Sizan Nandi

... for the petitioner.

Mr. Lalit Mohan Mahato

Mr. Prasanta Behari Mahato ... for the State.

Mr. Basudev Gayen

... for the Municipality

The writ petition is taken up for consideration in presence of the learned advocates representing the petitioner, Municipality and the State respondents.

Notices have been attempted to be served upon the private respondents but from the tracking reports which are annexed to the affidavit of service it appears that the private respondent nos. 9(a) and 10 have refused to accept the notices. Affidavit of service filed in Court is taken on record.

The grievance which has been ventilated on behalf of petitioner is encroachment of the partitioned property of the petitioner being one of the co-sharers by other co-sharers on being mutually partitioned on 16th April, 1987. Primarily grievance is against other co-sharers for encroaching the portion of the property of the petitioner.

Considering the nature of dispute involved as it emanates from the complaint dated 17th April, 2014 addressed to the concerned authorities of the Municipality it appears that it does not fall within the jurisdiction of Municipality to find out the respective portions of the co-sharers within the said partitioned property.

The nature of the dispute is civil therefore petitioner ought to have approached the civil court for adjudication of the dispute and demarcation of share of the petitioner.

Accordingly, this writ petition stands dismissed.

However, this order shall not preclude the petitioner to approach the civil court for necessary relief. There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)