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03.02.2023
d.p.

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

W.P.A 11365 of 2020

**Krishna Singha & Anr.
-versus
Board of Administrators, Bongaon
Municipality & Ors.**

**Mr. Sourav Sen.
...For the Petitioners.**

**Mr. Sayan Sinha,
Mr. Adil Naskar.
...For the Municipality.**

The petitioners filed the present writ petition with a prayer to quash/cancel/recall the notice dated 17th December, 2020 and subsequent notice dated 18th December, 2020 issued by the authorized officer of the Bongaon Municipality, Building Plan Department.

A supplementary affidavit has been filed by the petitioners mentioning that prior to the hearing being conducted by the Municipality, the boundary wall of the petitioners has been demolished in the night.

The petitioners lodged complaint before the police naming certain miscreants.

The petitioners assert that the Municipality was indirectly involved in demolition of the boundary wall by using bulldozer.

It is the specific case of the petitioners that without the direct help of the Municipality, the boundary wall could not have been demolished by using bulldozer.

Pursuant to the direction passed by this Court, affidavits have been filed by the Municipality and by the State respondents.

The Municipality has clearly mentioned in the affidavit that none of the men /agents /employees /officials /authorities of the Bongaon Municipality was involved/responsible for the demolition of the construction of the petitioners.

The Sub-Divisional Officer, Bongaon filed an affidavit mentioning that the petitioners are the recorded owners of the scheduled land in question comprising Dag No. 1558 measuring 2.50 decimals out of 35.29 decimals in Mouza-Bongaon, Khatian Nos. 21797 and 21798.

The petitioners all along enjoyed the property which is un-demarcated and accessible to all. The property is situated just in front of the party office of the Indian National Congress (Bongaon Region).

Rest portion of the land measuring 32.79 decimals is being used as a party office of the aforesaid political party.

A civil suit being Title Suit No. 76 of 2020 is pending consideration before the Learned Civil Judge (Junior Division) at Bongaon with regard to the subject property and the Learned Court below passed an ad interim order of injunction restraining the

defendants/men and agents from entering the suit property and disturbing the possession of the present petitioners in the suit property.

On 22nd December, 2020 some miscreants demolished the newly erected boundary wall of the petitioners. A police case has been initiated in response to the complaint lodged by the petitioners and investigation of the case is under progress.

It appears from the averments made in the affidavit filed by the respondents that neither the Municipality nor the State respondents were involved in the demolition process. Both the respondents disown the liability of the demolition.

Presently, the dispute is with regard to the title of the subject property. The issue of title and possession is pending consideration before the Learned Civil Court.

At this stage, it will not be proper for the writ court to pass any direction upon the Municipality either to inquire the issue or to permit the petitioners to raise the boundary wall all over again, because the same will give rise to further legal complications.

It will be open for the petitioners to approach the Learned Court below for necessary relief, if so advised.

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.)