

Sl.No. 30
27.02.2023
SB-II
AGM

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

W.P.A. 333 of 2023

**Ramen Mohanta
-versus
The State of West Bengal & Ors.**

**Mr. Debayan Das,
...For the Petitioner.**

**Mr. Bablu Mitra,
Mr.Subhasish Misra,
...For the respondent No. 11 and 12.**

**Mr. Hirak Barman,
Mr. Momenur Rahaman, ... for the State.**

The petitioner alleges that the private respondents are illegally and arbitrarily filling up a water body and making construction thereon in such a manner that ingress and egress to his plot of land has been blocked.

The petitioner further alleges that construction is being made without obtaining any sanction from the Municipality.

It has further been submitted that the private respondents are running business from the structures constructed illegally without obtaining any Certificate of Enlistment from the Municipality

The petitioner complains that the representation filed before the respondents did not yield any result.

None appears on behalf of the Dhupguri Municipality despite service.

Affidavit-of-service filed today is taken on record.

Learned advocate representing the private respondents submits, upon instruction that, his clients are running business in accordance with law.

The learned advocate admits that the land over which the construction has been made and the business run, is a Government land.

The allegation of unauthorized construction and encroachment has been denied.

Learned advocate representing the State respondents submits, upon instructions that, the petitioner and the private respondents both are occupying Government land.

The dispute in question is a private one and the Court ought not to enter into the issue involving disputed questions of fact.

From the submissions made on behalf of both the parties, it appears that the dispute is certainly a private one, but when the issue arises with regard to unauthorized construction by filling up of water body without obtaining necessary permission from the Municipality, then the Court cannot remain as a mute spectator.

In view of the above, the instant writ petition is disposed of by directing the Dhupguri Municipality and the respondent no 8, the Assistant Engineer, Public Works Department (Roads) to consider the petition filed by the petitioner in December 2022 in accordance with law, after giving reasonable opportunity of hearing to all the necessary parties.

If required, both the authorities, that is the Municipality and the Assistant Engineer, Public Works Department (Roads) shall cause joint spot inspection to ascertain the veracity of the allegation of the petitioner.

Reasoned order shall be passed by the aforesaid respondents and communicated to both the parties.

The respondent authorities shall conclude the above exercise at the earliest, but positively within a period of twelve weeks from the date of communication of this order.

Learned advocate for the petitioner is directed to forward a copy of the representation dated 8th December, 2022 to the aforesaid respondents at the time of communicating the order of the Court.

The writ petition stands disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)

