

06-10-2023
Court No.3
Sh/17.

**In The High Court At Calcutta
Jalpaiguri Circuit Bench**

W.P.A. 2428 of 2023

Smt. Janki Devi Digra and Ors.

-Vs-

State of West Bengal & Anr..

Mr. Sudipto Kumar Mozumdar, Ld. DSGI,
Mr. Shubhankar Dutta,
Mr. Shubhadeep Sarkar.

For the petitioners.

Mr. Subir Kumar Saha, AGP,
Ms. Bedashruti Bose.

For the State.

Mr. Deborshi Dhar.

For the Municipal Corpn.

The petitioners assert that after obtaining sanctioned plan from the Siliguri Municipal Corporation they have constructed their residential building over the land in question. The Siliguri Municipal Corporation has served a general notice dated September 30, 2023 to the following effect:

“For the purpose of Construction/ development/widening of Nivedita Road (Public Road) it is hereby informed to all concerned to vacate the encroachment upon Nivedita Road (PWD Road) within 7(seven) days from the date of this notice else the Siliguri Municipal Corporation shall not be liable/ answerable for any consequences.”

Mr. Sudipto Kumar Mazumdar, learned senior advocate appearing on behalf the petitioners submits that the petitioners apprehend that following the said notice dated September 30, 2023 Siliguri Municipal Corporation will demolish their residential house. He further asserts that there is no encroachment made by the petitioners on the Public Works Department's road and drain.

Mr. Deborshi Dhar, learned advocate appearing on behalf of Siliguri Municipal Corporation on the other hand, does not deny the fact that the petitioners obtained sanctioned plan from the Siliguri Municipal Corporation with regard to their residential house. He however, contends that the petitioners have encroached the Public Works Department's road and drain for which the notice dated September 30, 2023 has been served upon them.

I am of the view that whether there has been any encroachment by the petitioners on the Public Works Department's property should be decided by a competent authority before taking any steps against the petitioners.

Accordingly, this writ petition is disposed of with a direction upon the Block Land & Land Reforms Officer, for the Siliguri Municipal Corporation area to

carry out necessary measurement work to ascertain whether there has been any encroachment made by the petitioners over the Public Works Department's road or drain. In carrying out the measurement work, the concerned Block Land & Land Reforms Officer shall allow the petitioners to produce their purchase deeds and all other relevant documents.

The said Block Land & Land Reforms Officer shall submit his report before the Siliguri Municipal Corporation within a period of two months from the date of communication of this order.

The Siliguri Municipal Corporation shall thereafter, based on the report of the Block Land & Land Reforms Officer, take steps in accordance with law.

Needless to mention that the said Block Land & Land Reforms Officer shall supply a copy of his report to the petitioners.

Accordingly, **WPA 2428 of 2023** is disposed of.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties expeditiously subject to compliance of all requisite formalities.

(KAUSIK CHANDA, J.)

