

30.07.2024
Sl.19.
Suman
Ct.No.15

WPA 2343 of 2024

Krishna Kumar Roy and Anr.
Vs.
The State of West Bengal and Ors.

Mr. Rabindra Kumar Jaiswal
Ms. Manjula Paul
..for the petitioners

In this writ petition, the petitioners have prayed,
inter alia, for the following reliefs:

*“(a) A writ in the nature of Mandamus do issue upon the state respondents particularly the respondent nos. 2 and 3 for taking necessary step for setting the wrong right and unauthorized construction made by the respondent nos. 5 to 15 be demolished;
(b) A writ in the nature of Mandamus do issue the state respondents particularly the respondent nos. 2 and 3 to take step for restoration of earlier construction prior to illegal construction made by respondent nos. 5 to 15, as more fully pleaded hereinabove;”*

It appears that the petitioners on an earlier occasion filed Title Suit No.1550 of 2021 against the respondent nos. 5 to 15 with the following prayer.

*“A. A declaration that the schedule building is illegal;
B. Permanent injunction restraining the Defendants, his men and agents from making further and /or illegal construction under the said building;
C. Mandatory injunction restraining the defendants and his men and agents from making further construction upon the building;*

*D. Ad-interim Order in terms of Prayer 'B'
& 'C';"*

Learned advocate appearing for the petitioners submits that the said suit has been withdrawn. He further submits that since the prayers made in this writ petition and in the aforesaid title suit are different, the writ petitioners can maintain this writ petition before this Court.

I am unable to accept such contention. The pleadings of the writ petition and in the title suit would clearly indicate that in both the cases, the writ petitioners essentially challenged the construction carried out by the respondent nos.5 to 15 without any permission from Maheshtala Municipality. The Municipality was a party in the suit also.

Once the suit was withdrawn by the petitioners, in my view, they were clearly barred from filing this writ petition with the similar prayers.

Accordingly, **WPA 2343 of 2024** is not entertained and is dismissed.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)