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25.01.2024
Ct. No. 15
adeb

W.P.A. 11505 of 2010

**Sri Dhirendra Nath Sil
Vs.
The State of West Bengal & Ors.**

**Mr. Tarun Kumar Das
Mr. Goutam Achariya**

....for the petitioner

**Mr. Anant Kr. Shaw
Mr. Mainak Ganguly**

...for the respondent nos. 5 & 6

Mr. Shibasis Chatterjee

**...for the respondent nos.
10a,10b & 10d**

**Mr. Jayanta Kumar Das
Ms. Madhumanti Das**

...for the respondent no. 9

The writ petition has been presented, *inter alia*, challenging encroachment of land as well as municipal road by the private respondents. According to the petitioner part of the municipal road has been illegally grabbed by the private respondents while making constructions of their houses.

Having considered the grievance which has been ventilated on behalf of the petitioner on 21st December, 2023 a report was called for from the concerned authority of Kharagpur Municipality. The concerned authority of Kharagpur Municipality was also directed to inspect the locale and thereafter to submit a report in order to disclose whether any encroachment has been

made by the private respondents or not as alleged in the writ petition.

Pursuant to such order dated 21st December, 2023 a report in the form of affidavit has been filed on behalf of Kharagpur Municipality enclosing inspection report which is at page 5 of the said affidavit. The report of the municipality is taken on record.

On perusal of paragraphs 2, 3, 4 as well as page 5 of the said affidavit it appears that inspection was made on 11th January, 2024 and it was found that as per old mouza map the width of the road adjacent to the houses of the petitioner and private respondents was 40 ft., but it has been admitted by the municipality that while according sanctioned plan in favour of the petitioner as well as private respondent no. 9 the width of the road was shown 12 ft. Treating the width of the adjacent road as 12 ft. respective sanctioned plan was accorded in favour of the petitioner and the private respondent no. 9 and it is also disclosed in the report that in terms of the sanctioned plan both the petitioners and the private respondent no. 9 have made their constructions. It is also stated in paragraph 5 of the affidavit that entire plot in question, parts of which are presently owned by the petitioner and the private respondents, was under the management of Refuge Relief and Rehabilitation Department, Government of West Bengal. From the report it transpires that though mouza map goes to show

the adjacent road had width of 40 ft., but it may so happen that after allotment of plots by the Refuge Relief and Rehabilitation Department in favour of the individuals including the petitioner and the private respondents the width of the road was reduced to 12 ft.

On behalf of the petitioner attempt has been made to demonstrate before this Court that there has been encroachment on the municipal road possibly for the reasons as stated hereinabove that width of the road which was originally as per mouza map was 40 ft. has been reduced to 12 ft. But at the same time it is required to be taken into consideration that both the petitioner and the respondent no. 9 were granted sanctioned plan by the Kharagpur Municipality upon showing the adjacent road having width of 12ft. Accepting such sanctioned plan the petitioner and the respondent no. 9 constructed their dwelling houses. Subsequently, it is not open to the petitioner to allege that the adjacent municipal road has been encroached.

In view of aforesaid scenario this Court does not find merit in the writ petition. Accordingly, the same stands dismissed.

However, this order shall not preclude the petitioner to approach the Civil Court for demarcation of land of the petitioner, private respondents and the adjacent municipal road.

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.)