

Sl. No.32
13.11.2024
Suman
Ct. 15

WPA 13772 of 2024

Md. Rejaul Karim Molla and Anr.
Vs.
The State of West Bengal and Ors.

Mr. Nitai Chandra Saha
Mr. Abhijit Chandra Majumder
...for the petitioners

Mr. S. Sen
Mr. Tapas Singha Roy
..for respondent nos. 6 and 7.

Ms. Debleena Dasgupta
..for the State

The petitioners contend that Respondent Nos. 6 and 7 are undertaking construction at the disputed premises without a sanctioned plan from Maheshtala Municipality. Additionally, it is contended that respondent nos. 6 and 7 are encroaching upon land that belongs to the petitioners.

In contrast, the learned Advocate for respondent nos. 6 and 7 argues that the property in question is jointly owned by the parties.

It appears that the petitioners have filed Title Suit No. 547 of 2022 before the learned Civil Judge (Junior Division), Sixth Court at Alipore, seeking a declaration of their rights, title, and interest over the property in question. They have also filed an

application for an injunction restraining them from carrying out any construction work at the disputed premises before the same court. However, the learned Civil Judge (Junior Division), 6th Court at Alipore, declined to grant an injunction against respondent nos. 6 and 7. The Miscellaneous Appeal filed against the refusal of the injunction has also been dismissed.

In my view, since the petitioners have approached the Civil Court with a prayer to restrain respondent nos. 6 and 7 from proceeding with the construction work, it would not be appropriate to allow the writ petition to proceed with this writ petition as a parallel remedy.

In light of the above, I am not inclined to entertain this writ petition.

This order, however, shall not preclude the Municipality from taking steps in accordance with law.

Accordingly, **WPA 13772 of 2024** is dismissed.

This, however, shall not prevent the petitioners from filing an appropriate application before the Civil Court.

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.)