

Item No. ML. 80
10.05.2024
AGM

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 15120 of 2022

**Bani Dutta
-versus
State of West Bengal & Ors.**

**Mr. Nirmalendu Bera.
Ms. Tanima Nandy.
...For the Petitioner.**

**Ms. Apaparupa Bhattacharya.
Ms. P. Roy.
Ms. Nargish Parveen.
... For the Private respondent.**

The petitioner alleges illegal and unauthorised construction at the behest of the private respondent no. 6.

From the documents annexed to the writ petition it appears that the objection filed by the petitioner was taken up for consideration and a survey was conducted by the Basirhar Municipality. The Municipality by a communication dated 9th September, 2015 intimated the private respondents that she was making construction by encroaching upon a portion of the petitioner's land. A stop construction notice was issued.

The petitioner complains that since thereafter the Municipality did not take any further step in the matter.

The Court is of the opinion that as regards encroachment, the competent forum to decide the issue

is the Civil Court. The Municipality would not be in a position to adjudicate the issue of encroachment.

In view of the above, the instant writ petition is disposed of by granting leave to the petitioner to approach the Civil Court for relief.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)