

M/L 58
22.04.2024
Court No. 24
Sayandeep

WPA 17714 of 2023

Sri Shibaji Kar & ors.
Vs.
State of West Bengal & Ors.

Mr. Debasis Kar

....for the petitioners

Mr. Deepnath Roy Chowdhury

....for the State

Mr. Soumyajit Bhatta

...for the Panihati Municipality

Mr. Dipta Bhanu Dutt

Mr. Debasish Das

.....for the pvt. respondent

The petitioner complains of unauthorized construction over a public pathway.

It appears that the order of demolition of the boundary wall passed by the Panihati Municipality in the year 2021 is yet to be implemented.

Learned advocate representing the private respondent submits, upon instruction that, the pathway is a private land of the co-sharers of the subject property. There is a pond in the private land which the private respondent sought to protect by constructing the boundary wall. A suit for declaration of ownership right in between the private parties appears to be pending before the learned Civil Court.

Learned advocate representing the Municipality asserts that the land where the construction has been made is a public land.

To ascertain as to whether the land in question is a public or a private land, the Block Land and Land Reforms Officer, Barrackpore II, North 24 Parganas is

directed to cause a spot inspection to ascertain as to whether the disputed land is private or a public pathway. The inspection shall be conducted in the presence of the representative of the Municipality, the private respondent and the petitioner. The mouza map shall be consulted to find out whether the passage/pathway is a private one or not.

If it transpires that the pathway is the Municipal land as claimed by the Municipality, then the private respondent shall take steps for removing the boundary wall so that there may be free flow of water and water logging does not take place.

If it appears that the passage is the private land of the private respondent, then it will be open for the private respondent to enjoy the same according to their own desire.

Steps for spot inspection shall be taken by the Block Land and Land Reforms Officer, Barrackpore II at the earliest but positively by 28th June, 2024. Report of spot inspection shall be circulated amongst all the parties.

Leave is granted to the advocate on record of the petitioner to implead the Block Land and Land Reforms Officer, Barrackpore II as party respondent in the instant writ petition, by tomorrow.

Let a copy of the writ petition be served upon the added respondent at the time of communicating the order of the Court.

The writ petition is 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.)