

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Joymalya Bagchi

And

The Hon'ble Justice Gaurang Kanth

***M.A.T. 1431 of 2024
(CAN 1 of 2024)***

***Palash Chandra Das
-Vs-
State of West Bengal & Ors.***

For the Appellant : Mr. Biswajit Hazra, Adv.
Mr. Archisman Sain, Adv.

For Respondent nos. 6 to 9 : Mr. Usof Ali Dewan, Adv.
Mr. Asif Dewan, Adv.

For Respondent nos. 2 to 4 (Bolpur Municipality) : Mr. Uttiya Ray, Adv.
Mr. Ashutosh Pal, Adv.
Mr. Arnab Mandal, Adv.

For the State : Mr. Tapan Coomar Dey, Adv.

Heard on : 06.08.2024

Judgment on : 06.08.2024

Joymalya Bagchi, J. :-

1. Appellant has assailed order dated 15.07.2024 whereby the writ petition was disposed of permitting the writ petitioners to construct a drain for drainage of waste water from their premises and the

Municipality concerned was directed to grant necessary permission upon deposit of necessary fees.

2. Learned Advocate for the appellant contends the Hon'ble Single Judge failed to consider that the proposal to construct the drain was on a common passage which leads to the appellant's property.

3. Learned Advocate for the respondent nos.6 to 9/writ petitioners contends construction of the drain would be made in their own premises and as per sanction plan.

4. We have considered the materials on record. There is no dispute that the respondent nos.6 to 9/writ petitioners are entitled to construct a drain in their own premises subject to permission from the Municipality concerned. However, such construction cannot be made on a public land or private property or on any common passage over which a third party has a right of easement. Prior to grant of sanction for constructing a drain in the premises of respondent nos.6 to 9/writ petitioners, Municipality concerned must bear in mind whether outflow of water from the drain would adversely affect public use of any pathway and/or other common amenities. Municipality should also ensure that the said construction is in sync with the sewerage works of the Municipality concerned.

5. The order impugned is modified to the aforesaid extent.

6. Appeal and connected application being CAN 1 of 2024 are thus disposed of.

7. There shall be no order as to costs.

8. Photostat certified copy of this judgment, if applied for, be given to the parties on compliance of all formalities.

I agree.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)

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