

Item No.145(ML)

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

15.05.2024
Ct-24

WPA 18796 of 2022
Shri Pradip Kumar Ghosal

v.

The Chairman, Arambag Municipality & Ors.

Mr. Ankit Agarwala
Ms. Alotriya Mukherjee
... for the petitioner.

Mr. S. Adak
Mr. Richa Pramanik
... for the Municipality.

Mr. Manas Kumar Kundu
... for the respondent no. 2.

Mr. Sounak Bhattacharya
Mr. Sounak Mondal
... for the respondent no. 3.

The petitioner is aggrieved by the order passed by the Executive Officer, Arambagh Municipality on July 7, 2022 wherein the Municipality expressed its no objection if the private respondent constructs her house as per the approved building plan and in compliance of the order passed by the Hon'ble High Court in her purchased area.

It appears from the submission made on behalf of the parties that a suit for partition is pending consideration before the learned Civil Judge.

In an appeal being FMAT 93 of 2020 with CAN 890 of 2020 filed at the behest of the private respondents

herein the Hon'ble Division Bench on February 28, 2022 passed order that the appellant [Smt. Subha Datta (De)], the private respondent herein, will be at liberty to raise construction in terms of the building plan within her purchased portion of the suit property without claiming any equity, at her own risk and costs, subject to the result of the suit for partition.

The petitioner contends that the private respondent has obtained a plan over the portion of the property which she did not purchase.

It appears that an issue has been raised with regard to the title of the land where the plan has been sanctioned. The adjudication of title of a property is to be done by the competent Civil Court. The Municipality is not the authority to adjudicate the issue of title.

In view of the above, no relief can be granted to the petitioner in the instant case. It will be open for the petitioner to seek remedy before the proper forum.

The writ petition fails and is hereby dismissed.

Affidavit-of-service filed in Court today is taken on record.

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

Sh

(Amrita Sinha, J.)