

29 28.02.2024
NB Ct. 24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(Appellate Side)

WPA 20393 of 2023

Iftekar Ahmed & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Gautam Banerjee,
Ms. Priya Dey.
...for the petitioners.

Ms. Mousumi Choudhury,
Ms. Amrita Panja Moulick.
..for the State.

Mr. Keshab Chandra Das,
Ms. Aparajita Mondal,
Mr. Biplab Adak.
...for Tarakeswar Municipality.

Mr. Pankaj Halder,
Mr. Neelabha Bera,
Mr. Samarjit Balial,
Mr. Bodhidipta Mondal.
...for the respondent no.6.

The petitioners complain that the private respondent has raised an illegal and unauthorised construction encroaching upon the private land of the petitioners.

The allegation is that the objection against such unauthorised construction is pending consideration till date.

Learned advocate representing the private respondent denies the allegation of the petitioners. It has been submitted that the land over which the construction has been made is the private land of the private respondent. The private respondent is raising construction thereon in accordance with the permission granted by the Tarakeswar Municipality.

Learned advocate representing the Tarakeswar Municipality relies upon the instruction forwarded by the Executive Officer of the Municipality. It appears therefrom that the complaint of the petitioners was sought to be adjudicated. The Municipality requested both the parties to produce documents in support of the property. The private respondent produced the documents but the petitioners failed to do so despite repeated opportunity granted.

The Municipality initially issued a stop construction notice but after the petitioners failed to produce any document, the said notice was withdrawn.

Upon hearing the submission made on behalf of all the parties, it appears that the primary allegation of the petitioners is that construction is being made encroaching upon their private land. The private respondent denies the ownership of the land in question.

In view of the disputed questions of fact raised in the instant writ petition, the Writ Court is not in a position to adjudicate the issue. The parties are relegated to the competent civil Court for redressal of their grievances.

The writ petition stands disposed of.

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

(Amrita Sinha, J.)