

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

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

FMA 564 of 2024

With

IA No.: CAN 1 of 2024

Pradip Kumar Chandra & Anr.

Vs.

The State of West Bengal & Ors.

For the appellants : Mr. Jahangir Hossain, Advocate

For the Bishnupur Municipality : Mr. Achinta Kr. Banerjee, Advocate
Ms. Indumouli Banerjee, Advocate

For the Private respondents : Mr. Abhinaba Dan, Advocate

Heard & Judgment on : January 29, 2025

DEBANGSU BASAK, J.:-

1. Appeal is at the behest of the writ petitioners and directed against an order dated February 29, 2024 passed in W.P.A. 15103 of 2022.
2. Appellants claim that, there are constructions which are unauthorized at the locale, made at the behest of the private respondents.

3. In consideration of such allegations, learned Trial Judge called for reports from the concerned Municipality.
4. Such reports were filed.
5. On consideration of the materials placed on record including the affidavits of the parties and the reports of the Municipality, learned Single Judge found that, there were civil disputes between the parties. Consequently, learned Single Judge in view of the existence of such civil disputes which according to the learned Single Judge required to be adjudicated upon by the appropriate forum, permitted the parties to approach the competent civil forum for necessary relief.
6. Appellants, Municipality and the private respondents are represented.
7. Allegations relate to alleged unauthorized construction on LR Plot No.12123. Reports were submitted by the Municipality before the Trial Court. Municipality is of the view that, there was a pre-existing construction on the plot. With the onset of the Pradhan Mantri Awas Yojana and the private respondents being found eligible for the assistance thereunder, private respondents received such benefits. Municipality permitted the private respondents to make the construction presently standing.
8. Learned Advocate appearing for the private respondents submits that, there is a civil suit pending between his clients and the appellants. He submits that, the original owner died intestate. The Title Deed on the basis of which the appellants seek to lay claim on the plot concerned is

a forgery. Dispute with regard to that is the subject-matter of the pending civil suit.

9. There is an issue as to the locus of the appellants to file the writ petition claiming themselves to be the owner of Plot No.12123. There is also the issue of the unauthorized construction which according to the Municipality was constructed after due permission.
10. On both the aspects, we find that, the learned Single Judge did not err in permitting the private parties to avail of their remedies before the appropriate civil forum.
11. We find no merit in the present appeal.
12. **FMA 564 of 2024** along with all connected applications are **dismissed** without any order as costs.

(Debangsu Basak, J.)

13. I agree.

(Md. Shabbar Rashidi, J.)

(AD)