

06.05.2025
Sl. No. 18
Ct No. 3
SG/tkm

WPA 16419 of 2024

**Sanat Kumar Naskar & Anr.
Vs
The State of West Bengal & Ors.**

Ms. Pampa Dey (Dhabal),
Mr. Biswarup Chatterjee,
Ms. Sangita Chatterjee.
...for the petitioners

Mr. Mir Anuruzzaman.
...for municipality

Mr. Vijay Agarwal, (through VC)
...for the State

1. The petitioners have preferred the present writ petition alleging illegal installation of underground drainage pipeline for water sewage over the land of the petitioners situated at L.R. Dag no. 61, C.S. Dag no. 57, R.S. Khatian no. 1890, L.R. Khatian no. 13005, J.L. no. 41, Touzi No. 109, Mouza- Kamrabad under P.S. Sonarpur in Dist. South 24 Parganas.

2. It is the case of the petitioners that an underground pipeline is being illegally laid over their land by the Rajpur-Sonarpur Municipality. Rajpur-Sonarpur Municipality had filed a report categorically asserting that the municipal drainage and water supply lines are located outside the boundary wall of the petitioners. In order to ensure the veracity of the conflicting claims this Court, by order dated

14.01.2025 had appointed a Special Officer to conduct an inspect of the premises in question with the assistance of a duly qualified surveyor and determine whether the drainage and water supply lines laid by the municipality encroached upon petitioners' land.

3. Pursuant to the said direction, the Special Officer has filed a report indicating that the plot was inspected with the assistance of a qualified surveyor. During the course of the inspection, photographs were taken. The petitioner no. 2 had handed over a copy of the site plan, which has also been annexed with the writ petition, which he refers to as Site Plan A. The surveyor upon inspection has also prepared a Site Plan which he refers to as Site Plan B in respect of the said plot.

4. Upon perusal of the two site plans it is found that according to Site Plan A the measurement of the said plot is 2 kattah 3 chattaks. According to Site Plan B measurement of the said plot is 1 kattah 12 chattak 12 sq. ft. As per Site Plan A the municipal pipeline is partially encroaching the said plot of the petitioners but as per Site Plan B the municipal pipeline is situated at the outside of the boundary wall of the said plot.

5. This Court is of the opinion from the two site plans annexed to the report of the Special Officer, it is

evident that there exist a discrepancy regarding the area allegedly occupied by the petitioners. While the petitioners claim ownership of 2 Kattah, 3 Chattak of land as per site plan A annexed to the writ petition, the physical inspection carried out by the Special Officer, in conjunction with a qualified surveyor pursuant to this Court's direction, indicates that the area in their possession is approximately 1 Kattah, 2 Chattak and 12 square feet. Furthermore, as per the reports submitted by the Rajpur-Sonarpur Municipality and the Special Officer, the drainage pipeline presently being laid lies beyond the boundary wall of the petitioners' property and does not amount to any encroachment.

6. This Court is not inclined to adjudicate upon disputed questions of fact, particularly with regard to the area and possession of immovable property, which are best left to be resolved before the appropriate civil forum. The evident discrepancy between the site plans, particularly in respect of the plot area, renders the matter one requiring factual determination beyond the scope of the writ jurisdiction.

7. The reports submitted by both the Rajpur-Sonarpur Municipality and the Special Officer unequivocally support the position that the pipeline does not encroach upon the petitioners' land. Thus,

the allegation of unauthorized encroachment stands unsubstantiated.

8. In light of the above findings, this Court is of the view that the allegation of the petitioners regarding encroachment by the municipal authorities lacks merit and does not warrant interference.

9. Since no affidavits have been filed by the respondents, the allegations made in the writ petition shall not be deemed to have been admitted.

10. There shall be no order as to costs.

11. Let urgent Photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Gaurang Kanth, J.)