

22.04.2025
Sl. No.35
Ct.3/ tkm

W.P.A. 144 of 2025
[Kankabati Parui & Ors. vs. State of West Bengal & Ors.]

Mr. Prantick Ghosh
Mr. P Bhattacharyy
Ms.Shravani Ghosh
... .. for the petitioners

Mr. Samrat Pal
... .. for the State

Mr. Subhabrata Das
Mr. M K Das
Mr. Kaushik Goyal

... .. for North Barrackpore Municipality

1. Affidavit of service is taken on record.
2. The present writ petition has been filed alleging encroachment on private land of the petitioners in CS Dag no. 5006 and 5008 in Mouza Ichapur, District North 24 Parganas.
3. It is the case of the petitioners that they are the recorded owners and are in settled possession of the Dag Nos. 5004, 5005, 5006 and 5008 having valid C.S. and L.R. Record of Right in their names. There is a narrow and long gap in between C.S. Dag Nos. 5006, 5008 & C.S. Dag No. 5007, which is approximately 2.5 feet in breadth and it goes inside from the main road, approximately 191 feet adjacent to the property of the petitioners in C.S. Dag Nos. 5006 and 5008. The said 2.5 feet wide gap is a private street and it is not a public one according to the

provisions of law under the West Bengal Municipal Act, 1994. The said common passage comes within the immovable asset owned and possessed by the owners of C.S. Dag Nos. 5006, 5008 and 5007 used for their own purpose and it is of no use to anyone other than the said owners. Municipal authority has no domain over the said 2.5 feet wide gali or alley which ought not legally bound to be maintained / preserved / upgraded by the municipal authority. The petitioner further contended that the respondent no. 5, the Assistant Engineer, PWD, North Barrackpore Municipality vide work order no. 1823/NBM/PWD dated 18.01.2017 improved the road by cement concrete for ingress and egress purpose of the public. The said improvement work was completed on 27.03.2017. In course of the said improvement work, the said respondent has encroached upon some portion of land of the Bastu Land situated over Dag Nos. 5008 and 5006. After illegally occupying the portion of such land also channeled a drain through the said common passage without giving any prior intimation to the owners of the said land. The municipality has not given the fair compensation for illegal and unconsented taking over a portion of land from the private property.

4. Learned counsel for the petitioners contended that the crux of the petitioners' grievances lies on the fact that the development activity carried out by the respondent municipality and the work order issued on 18.1.2017 is illegal since it encroaches upon the common passage and portions of land adjoining the premises of the petitioners.
5. Learned counsel for the respondent municipality submits that the said activities in question are being undertaken with the objective of enhancing civic amenities for the benefit of the inhabitants of the area. He further contends that there has been no encroachment upon the petitioners' land. However, in view of the fact that such claims give rise to disputed question of fact, this Hon'ble Court in exercise of its writ jurisdiction is not inclined to adjudicate upon such factual controversies, particularly as to whether any portion of the petitioners' land has indeed been encroached upon by the municipal authorities.
6. Learned counsel for the petitioners at this stage states that his clients shall be satisfied if their representation dated 15.3.2024 is decided by the municipality within a time bound manner.
7. Learned counsel for the respondent municipality submits that they are ready and willing to decide

the petitioners' representation dated 15.3.2024 within a period of eight weeks from the date of communication of this order after affording an opportunity of personal hearing to the petitioners as well as all the other stake holders by way of speaking order which shall be communicated to the parties one week thereafter.

8. With the above direction, the present writ petition is disposed of.

(Gaurang Kanth, J.)