

03.04.2025
Ct. No.2
18
Rohit

**Calcutta High Court
In the Circuit Bench at Jalpaiguri**

WPA 2525 of 2024

**Ujjal Kumar Banerjee @ Bandyopadhyay
-vs-
Commissioner, Siliguri Municipal Corporation &
Ors.**

Mr. Sajal Kumar Banerjee

...for the Petitioner

Mr. Deborshi Dhar

...for the Siliguri
Municipal Corporation

Mr. Dr. Arjun Chowdhury

Ms. Riya Agawal

...for the Respondent No.3

The petitioner has alleged that the private respondents have encroached upon the municipal road at Pradhan Nagar under Ward No. II of the Siliguri Municipal Corporation. The petitioner has further alleged that the private respondents after purchasing a plot of land have erected a construction by encroaching upon the municipal road.

It is not in dispute that the petitioner filed a Title Suit No. 96 of 2021 against the respondent no. 3 herein praying for declaration that the 3rd respondent herein has no right, title, interest, possession and/or occupation beyond the area mentioned in the sale deed. The petitioner has also prayed for a decree to the effect that the illegal possession and/or occupation of the land held by the 3rd respondent is

liable to be vacated and to be freed from public road. The petitioner also prayed for a direction upon the Siliguri Municipal Corporation to take measures for vacating or removing the obstruction on the land. The suit property which was the subject matter of the suit has been mentioned in the schedule of the plaint and it would be evident from the schedule of the plaint that the suit property is 18ft. wide road upon which the defendant is alleged to have constructed a boundary wall at the western part of the defendant's building. The said suit was contested by the private respondent No.3.

The learned Civil Judge, Senior Division, Siliguri by a judgment and decree dated April 9, 2024 rejected the said suit on contest upon holding that the plaintiff i.e., the writ petitioner herein has no cause of action for filing the said suit.

The petitioner thereafter filed this instant writ petition impleading the Siliguri Municipal Corporation and the Sub-Divisional Officer praying for a direction upon them to remove all sorts of encroachment from the alleged municipal road falling within Ward No. II of the Siliguri Municipal Corporation.

The learned Advocate appearing for the Siliguri Municipal Corporation submits that the road in respect of which the petitioner has prayed for removal of encroachment does not belong to the municipality.

The learned Advocate appearing for the private respondent No.3 submits that the petitioner has filed this writ petition in order to harass the 3rd respondent. He submits that the instant writ petition is not maintainable as the suit claiming more or less identical reliefs have been dismissed by the Civil Court.

Heard the learned Advocates for the parties and perused the materials placed.

After going through the averments made in this writ petition this Court finds that no material has been produced by the writ petitioner in support of his case that the road on which there has been an alleged encroachment belongs to the municipality.

The issue raised in the writ petition is encroachment of the municipal road by the private respondents and against one of whom the petitioner was unsuccessful before the Civil Court.

It appears that there are inter se disputes between the private parties of civil in nature and for which the petitioner approached the Civil Court and the learned Civil Judge dismissed the suit filed by the petitioner. Such disputes cannot be decided on affidavits by the writ court.

For all such reasons, this Court is not inclined to grant any relief to the petitioner.

However, this order shall not prevent the municipal authority from removing encroachment, if any, upon the municipal road.

With above observations WPA No. 2525 of 2024 stands disposed of.

(Hiranmay Bhattacharyya, J.)