

05.03.2026
sayandeep
Sl. No. 14
ML
Ct. No. 03

WPA 3319 of 2026

Swapam Kumar Paul
Vs.
The State of West Bengal & ors.

Mr. Pampa Dey (Dhabal)

..... For the petitioner

Mr. R. N. Chakraborty

Mr. R. Singha

.... For the municipality

Mr. Suddhadev Adak

Ms. Manika Pandit

..... For the State

1. The affidavit-of-service filed in Court today is taken on record.
2. This matter has checkered history previously alleging that Mahestala Municipality has grabbed the property belonging to the petitioner situated at Dag No. 350, 356 pertaining to Khatian No. 208, JL No. 49 in Mouza- Parbanglam under Mahestala municipality (hereinafter referred to as the said property) and had constructed a concrete road over a narrow passage between the aforesaid plots, the writ petition being WPA 5157 of 2021 was filed. Records would reveal that a civil suit is pending between the co-shearers in respect of the aforesaid property and an injunction order is subsisting. Records would reveal that by an order dated 19th May, 2022 a coordinate Bench of this Court taking note the submissions made by the

parties and noting that no further construction is going on the said property had been pleased to observed and direct as follows:

“The learned advocate for the municipality submits that a water pipeline has been laid through the common passage and the passage has been used to as a village road for years together. The passage has been paved in order to avoid water logging and inconvenience the people. The electricity department has also drawn electric connection through the said passage. It is further submitted that no further construction is going on. It is also undertaken by the municipality that further construction on the narrow passage shall not be made and the municipality will not claim any equity over the road, if the passage is declared to be within the share of the petitioner after conclusion of the partition suit.

The police authorities have filed a report from which it appears that the paved road existed for public use and the petitioner did not have any possession over the said road. In any event, if the said narrow passage/common passage is a subject matter of the civil suit, the decision of the civil court shall be binding on the parties to the suit as also the municipality with regard to the right, title and interest over the narrow passage. The report is taken on record.

If it is held by the learned civil judge that the petitioner has exclusive right over the said passage, in that event, the petitioner shall enjoy the passage as his own as per the decree of the civil court and the municipality shall not raise any claim with regard to the said 'road.

No equity shall be claimed by the municipality in respect of the said road.

Accordingly, the writ petition is disposed of.”

2. Today, learned advocate for the petitioner would submit that notwithstanding the aforesaid, further

construction has taken place on the property in question.

3. Mr. Chakraborty, learned advocate appears on behalf of the municipality. He has, however, candidly submitted that the aforesaid order dated 19th May, 2022 has been accepted by the municipality.

4. Having regard to the peculiar facts noted hereinabove and noting that this Court has already held that no equity shall be claimed by the municipality in respect of the said road which has already been constructed, I am of the view that status quo in respect of such road should not be disturbed for the present though the character of the said passage may be continued to be used as a public passage for the time being, however, the same shall abide by the result of the decree to be passed by the Civil Court.
5. With the above observations and directions, the writ petition is disposed of.

(Raja Basu Chowdhury, J.)