

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 6028 of 2024

Champa Das & Ors.
Versus
The Burdwan Municipal Corporation & Ors.

Mr. Apurba Kumar Ghosh
Mr. Rudranil Ghosh
Ms. S. Seth

... For the petitioners.

Mr. Arup Banerjee
Mr. Arun Kumar Saha

... For the respondent no.5.

1. The petitioners claim that their parents Late Shanti Ranjan Sen and Late Shefali Rani Sen were the absolute owner in respect of property situate at 5 No. Ichlabad, Police Line Bazar, P.O. Sripally, P.S. Bardhaman Sadar, District – Purba Bardhaman. According to the petitioners, due to old age, the petitioners' parents appointed the respondent no.5 who used to look after the aforesaid property by executing a power of attorney. In the year 2017, the petitioners came to know that the respondent no.5 had fraudulently executed a deed of gift on 24th October, 2017 and transferred the ownership of the aforesaid property/building in his name. The petitioners had since, instituted a suit, being Title Suit No. 169 of 2018 before the learned Civil Judge (Junior Division) Court, Purba Burdwan. The said suit is pending. Subsequently, the

petitioners claim to have come across photocopies of site plan/building plan issued on 7th April, 2016 and 5th May, 2016 containing signature of their mother, who died on 11th February, 2016. Accordingly, upon receiving such information the petitioners had made complaint before the municipality. Since the municipality did not take any steps for cancellation of sanctioned building plan, the instant writ petition has been filed.

2. Although, the municipality is not represented, the learned advocate for the private respondent has placed before this Court the plaint filed by the petitioners before the Court of Learned Civil Judge (Senior Division) at Burdwan which has been registered as Suit No. 97 of 2019 wherein the petitioners have prayed for a decree for partition and other reliefs. He further submits that the allegation of the petitioners are yet to be adjudicated by the Civil Court. The construction on the property has taken place on the basis of three several sanctioned building plan and the construction has been completed long back as such no interference is called for.

3. Having heard the learned advocates appearing for the respective parties and considering the materials on record, though the municipality is not represented, I am of the view, in the facts of the case, where civil suits are pending and there are private disputes between the parties, it shall not be appropriate for this Court to pass any order, especially when the petitioners seek

cancellation of the sanctioned building plan by holding out that the signature of the mother of the petitioners appearing on the sanctioned building plan is forged.

4. Accordingly, the writ petition stands dismissed. Dismissal of the aforesaid writ petition shall not stand in the way of the petitioners to proceed before the learned Civil Court if so advised, nor shall the same impinge on the rights of the municipality to take action for infraction of statutory provision.

(Raja Basu Chowdhury, J.)