

S/L 9
09.08.2021
Court. No. 19
GB

W.P.A. 9699 of 2021

Pradip Kumar Chanda
VS
The State of West Bengal & Ors.

(Through Video Conference)

*Mr. Arindam Banerjee,
Mr. Tanmoy Roy.*

...for the Petitioner.

*Mr. Rudranil Dey,
Mrs. Sabnam De.*

...for the K.M.C.

Mr. Umesh Kumar Singh.

...for Respondent Nos.8 to 11.

The instructions filed by the Kolkata Municipal Corporation are taken on record.

The petitioner is the neighbour of the respondent nos.8 to 11. It is alleged that the said respondents and the petitioner have been enjoying a common boundary wall for the last three decades. Suddenly, the respondent nos.8 to 11 have started construction on the common boundary wall situated at Premises No.49/A Bedia Danga Second Lane, Kolkata – 700039.

It is contended by the petitioner that the said construction is a recent one and the raising of the boundary wall was unauthorized.

The learned advocate appearing on behalf of the respondent nos.8 to 11 produces two tax receipts granted by

the then Calcutta Municipal Corporation, from which it appears that the said house was in existence from 1958-59. He submits that when the house was constructed, the building rules did not require any person proposing to construct a building, to leave any side space with the adjacent building. The petitioner disputes such contentions.

According to the respondent nos.8 to 11, the boundary wall is not a common wall but a wall within the premises of the said respondents and the wall has been slightly raised.

This Court is not in a position to decide the disputed questions of facts raised by the parties.

Under such circumstances, the writ petition is disposed of with a direction upon the Kolkata Municipal Corporation to reach the proceedings already initiated under Section 400 of the Kolkata Municipal Corporation Act, 1980 to its logical conclusion. The concerned authority of the Kolkata Municipal Corporation, shall proceed in accordance with law on the basis of the contentions of the parties and also hold an inspection of the premises in the presence of both the parties. The inspection report shall be supplied to all the concerned parties. Thereafter, the proceeding initiated shall be reached to its logical conclusion. The parties shall be heard and a reasoned order shall be passed and communicated to all concerned. Action as per law shall be taken by the authorities.

The Court has not decided the merits of the issues involved and the Kolkata Municipal Corporation shall dispose of all the issues raised herein in accordance with law.

The entire exercise shall be completed within a period of ten weeks from date of communication of this order.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)