

15.2.2022
Ct. No.19
Sl.no.17
sn

W.P.A. No. 7636 of 2021

Mohammad Tahir Hussain

Vs.

Asansol Municipal Corporation & Ors.

Mr. Sandip Kumar Bhattacharyya

Mr. Suman Basu

Mr. Abdul Murshid

Ms. D. Pramanik

....for the petitioner

Mr. Sounak Bhattacharya

Mr. Chandra Nath Sarkar

..for the AMC

Mr. Apurba Kr.Datta

..for the respondent no.3

The petitioner has alleged that the respondent no.3, who is the owner of the plot adjacent to the plot of the petitioner has made some illegal construction on the roof as a result of which accumulated water was being drained into the land occupied by the petitioner. The allegation is that the respondent no.3 has made such illegal construction on the area situated at south-western part of the petitioner's plot. The house of the respondent No. 3 is situated at Dag No. 1732, Mouza Ningha, P.S. Jamuria, District Paschim Bardhaman.

The learned advocate for the respondent no.3 submits that there are no allegation in the writ petition with regard to unauthorised construction. The allegations are that some stagnation of water was taking place and the same was providing a breeding ground for mosquitoes.

This writ petition is disposed of with a direction upon the competent authority of the Corporation to dispose of the complaint of the petitioner dated October 28, 2020, being Annexure P/5 to the writ petition.

While disposing of such representation, the Corporation shall adhere to the following procedure:-

- a) An inspection of the roof of the respondent No.3 shall be conducted. Such inspection shall be held in the presence of the parties, within three weeks. Advance notice of the inspection shall be served upon the petitioners and the respondent no.3. If the parties are not available to accept notice, the authorities shall affix the notice of hearing and inspection at conspicuous places in their respective premises.
- b) A report of such inspection shall be prepared along with the sketch map, indicating whether any unauthorized construction has taken place.
- c) Such report shall be handed over to the petitioner as also the respondent no.3.
- d) A hearing shall be given to the petitioner and the respondent no.3. The parties must also be allowed to furnish their written objection/version to the said report and adduce oral and documentary evidence in support of their contentions before the competent authority.

e) A reasoned order shall be passed and communicated to the parties. On the basis of what transpires at the hearing and during inspection, the proceedings shall be reached to its logical conclusion in terms of the statute. The court has not gone into the merits of the claims and the issues involved shall be decided independently.

f) The question of title, encroachment etc. shall not be gone into by the Corporation.

The entire exercise shall be completed within a period of three months from the date of communication of this order

This writ petition is, thus, disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)