

ML 158
20.07.2022
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A. 9203 of 2021

**Bharat Chopra
-versus
The Kolkata Municipal Corporation & Ors.**

**Mr. Krishnendu Bera.
...For the Petitioner.**

**Mr. Sayantan Das,
Mr. Ayan Kumar Boral.
...For the Respondent No.4.**

The petitioner alleges illegal and unauthorized construction at the instance of the respondent no. 4 Bholanath Jaiswal in the open space between the premises No. 24 and 25, College Street, Kolkata-700073 by making pucca construction thereon.

The petitioner submits that the construction has been made in such a manner that the window of the petitioner has been obstructed and there is blockage in the free flow of air and light.

It has been submitted that in respect of the disputed area a Civil Suit has been filed by the petitioner before the Learned City Civil Court at Calcutta being Title Suit No. 156 of 2019 and the same is pending adjudication.

The petitioner filed representation before the Kolkata Municipal Corporation in March 2021 and

alleges that the same has not been taken up for consideration till date.

Learned advocate appearing for the respondent No. 4 denies the allegations of the petitioner. It has been submitted that there is no vacant space in between the two premises. The private respondent was using the roof of the 1st floor of the premises No. 24, College Street.

It appears that the petitioner has already lodged a complaint before the Executive Engineer (Building), Borough-V highlighting the illegal and unauthorized construction allegedly made by the private respondent.

The respondent No. 3 Executive Engineer, Building Department, Borough-V is directed to consider the representation filed by the petitioner strictly in accordance with law, after giving an opportunity of hearing to both the parties.

A reasoned order shall be passed by the aforesaid respondent at the earliest but positively within a period of eight weeks from the date of communication of a copy of this order.

The reasoned order shall be communicated to the parties immediately thereafter.

In the event the aforesaid respondent is of the considered opinion that the construction has been made unauthorizedly, then necessary remedial steps shall be taken to deal with such unauthorized construction, in accordance with law.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

It is made clear that this Court has not entered into the merits of the claim made by the petitioner and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

The petitioner is directed to forward a copy of the representation dated 18th March, 2021 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)