

Sl. No.54
31.08.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 9871 of 2022

Debasish Mukherjee
Vs.
The State of West Bengal & Ors.

Mrs. Santi Das

... for the petitioner

Mr. Swarup Banerjee

Mr. Arindam Chatterjee

... for the respondent nos.7 & 8

Mr. Udayan Datta

... for the Municipality

Mr. Uttam Kumar Bhattacharyya

Mr. Kaustav Mishra

... for the respondent no.8

Mr. Narayan Chandra Bhattacharyya

Ms. Sujata Ghosh

... for the State

The petitioner alleges that the respondent nos.7 & 8 are raising construction without obtaining any sanctioned plan from the New Barrackpore Municipality.

The specific contention of the petitioner is that the construction is being made without maintaining the statutory side space.

The petitioner complains that the representation filed before the Municipality has not been taken up for consideration till date.

The aforesaid contention of the petitioner has been denied by the Municipality as well as the respondent nos.7 & 8 i.e. the persons responsible for making construction.

It has been submitted that construction is being made in accordance with the plan sanctioned by the Municipality.

On a perusal of the said representation filed by the petitioner, it appears that averment of not maintaining statutory side spaces at the time of making construction and making construction in deviation of the sanctioned plan has not been placed before the Municipality.

In absence of a proper representation before the Municipality, it will not be possible for the Municipality to take effective steps in response to the complaint filed by the petitioner.

In view of the above, the instant writ petition is disposed of by granting liberty to the petitioner to file comprehensive representation highlighting the illegalities allegedly committed by the private respondents at the time of making construction.

In the event such representation is made, the same shall be taken into consideration by the competent authority of the New Barrackpore Municipality strictly in accordance with law after affording a reasonable opportunity of hearing to all the

necessary parties, at the earliest but positively within a period of twelve weeks from the date of filing the representation.

The aforesaid respondent shall pass a reasoned order and communicate the same to the parties immediately thereafter.

It is made clear that Municipality shall not enter into or decide upon any private dispute in between the parties as well as issue of encroachment made by either of the parties.

As regards infringement of private rights of the parties, the parties will be at liberty to approach the competent forum for relief, if so advised.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities

(Amrita Sinha, J.)