

Sl. No.12
05.09.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 11835 of 2021

Gurupada Sadhukhan
vs.
State of West Bengal & Ors.

Mr. Kamlesh Jha
Ms. Srabani Biswas
... for the petitioner

Mr. Achintya Kumar Banerjee
Mr. Indrumouli Banerjee
... for the Municipality
Mr. Malay Krishna De
Mr. Sajal Kumar Pandit
... for the State

Mr. G. Goswami
Mr. P. Goswami
... for the respondent no.5

The petitioner alleges illegal and unauthorised construction at the instance of the respondent no.5. It has been submitted that excavation for construction has been made in such a manner that the building of the petitioner which is situated in the adjacent plot has been damaged.

The petitioner has annexed photograph to show that excavation has been made beneath the land of the petitioner.

Learned advocate representing the private respondent submits that the construction is being

made in accordance with the plan sanctioned by the Ranaghat Municipality.

Learned advocate for the Ranaghat Municipality has produced an enquiry report before this Court signed by the Chairman, Board of Administrators, Ranaghat Municipality and the Sub Assistant Engineer, Ranaghat Municipality. The same mentions that an enquiry was conducted on 29th June, 2020 in the holding No.14, G.N.P.C Road under Ward No.12. The said premises is recorded in the name of the respondent no.5.

At the time of enquiry it was found that the respondent no.5 was constructing his new apartment after taking sanctioned building plan from the Municipality.

It was noticed that construction was being made violating the Municipal rule regarding mandatory side open space to be maintained. The side open space in the Northern side has not been maintained.

The report further mentions that the petitioner has also constructed by violating municipal rules by not keeping mandatory side open space in the Southern side i.e. Northern side of the respondent no.5 and the Western side of the respondent no.5.

As it appears from the enquiry report filed by the Municipality that the enquiry was conducted on 29th June, 2020 and more than two years have elapsed from

the date of the enquiry, accordingly, the Municipality is directed to conduct fresh enquiry upon giving prior notice to both the parties and to ascertain whether the construction has been made in accordance with the sanctioned plan or not. At the time of enquiry the engineers of the Municipality shall also try to ascertain as to whether any damage has been caused to the construction of the petitioner because of the excavation and construction made by the private respondent.

Relying on the basis of the enquiry report necessary steps shall be taken by the Municipality to deal with the violation, if any, and the damage, if any, that has been caused.

The Municipality shall take steps in the matter at the earliest but positively within a period of eight weeks from the date of communication of this order.

A reasoned order shall be passed by the Municipality and communicated to both the parties immediately thereafter.

In the meantime, the Municipality shall ensure that no construction is being made in violation of the plan that has been sanctioned by the Municipality.

The enquiry report filed by the Municipality be retained with the records.

Affidavit of service filed in Court is taken on records.

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.)