

14.01.2022
Court No. 19
Item no.08
(gc)

WPA 17407 of 2021

**Ram Chandra Basak
Vs.
The State of West Bengal & ors.**

Mr. Jaydeep Biswas, Adv.,
Mr. Soumyadeep Das, Adv.,
Mr. Kaushik Ghosh, Adv.,
.....for the petitioner.

Mr. Amal Kumar Sen, Ld. A.G.P.,
Mr. Amit Kumar Ghosh, Adv.,
Mr. Lal Mohan Basu, Adv.,
....for the State.

Mr. Alak Kumar Ghosh, Adv.,
Mr. Gopal Chandra Das, Adv.,
.....for the municipality.
Mr. Sayeed Khan, Adv.,
....for the Respondent Nos.13 & 14.

The petitioner has alleged that the respondent Nos.13 and 14 have raised certain constructions over and above the boundary wall of the petitioner. According to the petitioner, the construction is being carried out at Premises No.65B, Pataldanga Road, Kolkata – 700 009. It is submitted that the terrace and the asbestos shed staircase room have been demolished under the garb of repair and new constructions have been made. Photographs have also been submitted before this Court in support of the contention of the petitioner.

Mr. Sayeed Khan, learned Advocate appearing on behalf of the respondent Nos.13 and 14 has

submitted that the construction has been made on the basis of a reconstruction plan, which was granted by the authorities of the Kolkata Municipal Corporation for construction over and above the already existing two floors.

Mr. Alak Kumar Ghosh, learned Advocate appearing on behalf of the Kolkata Municipal Corporation has submitted a report from which it appears that certain unauthorized constructions have been found by the Kolkata Municipal Corporation and a stop work notice has also been issued.

As the Corporation has already taken steps in this matter and it is the Corporation which is empowered by law to take steps on the basis of the allegations, if the same are found to be correct, this Court is of the opinion that the Kolkata Municipal Corporation which is the competent authority shall dispose of the complaint of the petitioner being Annexures P-3 and P-4 to the writ petition in the manner provided hereunder:-

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of the parties, with 48 hours advance notice to the petitioner and the respondents Nos. 13 and 14.

- b) The report of the inspection shall be prepared along with the sketch map indicating the extent of deviation, if any.
- c) Such report shall be handed over to the petitioner as also the respondents Nos.13 and 14.
- d) A hearing shall be given to the petitioner and the respondents Nos.13 and 14. 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 counter-claims of the parties and the issues shall be decided independently.

In view of the rising pandemic situation, the entire exercise shall be completed within a period of eight months from the date of communication of this order.

The 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.)