

19.12.2022
Court No.24
Item No.44
AP

WPA 17046 of 2022

**Debabrata Basu
Vs.
The State of West Bengal and Ors.**

Mr. Rajib Kumar Basu

... For the Petitioner.

Ms. Sutapa Sanyal
Mr. Anand Farmania

... For the State.

Ms. Sima Chakraborty
Ms. Suranjana De Sarkar

... For the K.M.C.

None appears on behalf of the private respondent despite service. Affidavit of service filed in Court today is taken on record.

The petitioner alleges illegal and unauthorized construction at the instance of the respondent No.6

It appears from the cause title of the writ petition that the Executive Engineer of the concerned Borough has not been impleaded as party in the present proceeding. Representation filed by the petitioner was also not before the Executive Engineer of the concerned Borough.

A report filed by the Assistant Engineer (Civil) and the Executive Engineer (Building), Borough No.-XVI, Joka signed on 14th December 2022 mentions that the premises no.24/16, Kajir Chak, Joka, was inspected and it was seen that no new construction was going on. The premise is butted by boundary wall. Few trees were seen by the side of the boundary wall

but the same is not a matter to be inquired by the Building Department.

The representation filed by the petitioner on 25th April 2022 is yet to be disposed of.

In view of the above, the Chairman, Borough No.-XVI, Joka is directed to inquire as regards the nuisance created by the private respondent in planting big trees and constructing underground water reservoir by the side of the boundary wall in such a manner that the boundary wall of the premises is being damaged.

The Chairman, Borough No.-XVI, Joka is directed to consider the representation filed by the petitioner. If it appears to the Chairman, Borough No.-XVI that he is not the appropriate authority to decide the issue, then he may relegate the matter to the concerned department to take a decision with regard to the representation filed by the petitioner.

Learned advocate for the petitioner is directed to forward a copy of the representation dated 25th April 2022 to the aforesaid respondent at the time of communicating the order of this Court.

The respondent authority shall afford an opportunity of hearing to the petitioner and the private respondent and pass a reasoned order within a period of eight weeks from the date of communication of this order and communicate the reasoned order to the parties immediately thereafter.

It is made clear that this Court has not entered into the merits of the prayer of 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 aforesaid respondent is directed not to enter and decide any civil disputes in between the parties.

The writ petition is disposed of.

Instruction given by the engineers of the Kolkata Municipal Corporation be retained with the records.

All parties shall act on the server copy of this order duly downloaded from the official *website* of this Hon'ble Court.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)