

Item No.24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

27.03.2023
Ct-24

WPA 689 of 2023
Uma Roy Chowdhury
v.
State of West Bengal & Ors.

Dr. Madhusudan Saha Ray
... for the petitioner.

Mr. Tulsi Das Maity
Mr. Pradip Kumar Ghosh
... for the private respondent.

Mr. Soumyajit Bhatta
... for the Municipality.

The petitioner alleges that the private respondent is raising construction in an unauthorized manner. A septic tank has been constructed by the private respondent just beside the boundary wall of the petitioner's property.

The petitioner admits that the Municipal Officer inspected the site on November 24, 2022 and took photographs of the construction made. The petitioner alleges that report of spot inspection was not forwarded to the petitioner. No reply has given to the request made by the petitioner under the Right to Information Act.

Learned advocate representing the private respondent denies the allegation of the petitioner. It has been submitted that construction has been made in accordance with the plan sanctioned by the Municipality.

Learned advocate for the Municipality produces instruction dated March 10, 2023 signed by the Sub-Assistant Engineer of the Municipality mentioning that departmental inspection revealed that the private respondent constructed a septic tank in the west side leaving one feet space from the boundary wall of the petitioner's property.

It appears that there is no mention of any unauthorized construction in the said instruction. The petitioner has also not given details of any unauthorized construction made by the private respondent apart from construction of the septic tank beside the boundary wall of the petitioner.

The report filed by the Municipality mentions about one feet space left between the septic tank and the boundary wall of the petitioner.

Learned advocate for the petitioner submits that the provision mentioned in Rule 164 of the West Bengal Municipal Building Rules, 2007 has not been complied by the private respondent at the time of making construction.

It will be open for the petitioner to make appropriate application before the Municipality highlighting the provision and the infringement thereto by the private respondent. In the event, such a representation is made, the same shall be considered by the Municipality in accordance with law after giving reasonable opportunity of hearing to all the necessary parties. A reasoned order shall be passed and communicated to the parties.

The writ petition stands disposed of.

The report filed by the Sub-Assistant Engineer, Panihati Municipality dated March 10, 2023 has been circulated amongst the parties and the same is retained with the records.

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

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(Amrita Sinha, J.)