

21.06.2023
Court No.24
Item No.17
AP

WPA 5648 of 2023

Akhil Chandra Das
Vs.
The State of West Bengal and Ors.

Mr. Naren Ghosh Dostidar
Ms. M. Dutta Biswas

... For the Petitioner.

Mr. Pratip Kumar Chatterjee

... For the Respondent No.6.

The petitioner alleges that the private respondent is guilty of making unauthorized construction.

As per the direction passed by this Court, a physical inspection was conducted by the Barrackpore Municipality and a report filed before this Court. It appears therefrom that one room has been constructed in the northern side of the rooftop of Sri Ananda Kumar Das.

The room constructed is quite old, however, the roof has been newly built and the room has been renovated. Inspection further reveals that the petitioner has constructed a room in the common space in the western side of the building, which seems to be irregular. The municipal staff were resisted by the wife of the petitioner from entering into the premises for proper inspection.

The private respondent, Ananda Kumar Das has filed an affidavit wherein it has been mentioned that a

family settlement was entered in between the petitioner as well as the private respondent, who are brothers. The private respondent denies making any unauthorized construction as alleged or at all.

From the submissions made on behalf of both the parties and upon perusal of materials on record, it appears that there are several disputed questions of fact involved in the writ petition. The same cannot be adjudicated by the Court sitting in the writ jurisdiction. Evidence is required to be taken whether any construction has been made over the common space or on the roof.

In view of the above, no relief can be granted to the petitioner in the instant writ petition.

It will be open for the parties to approach the appropriate forum for declaration of their rights.

The writ petition stands disposed of.

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.)