

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 8869 of 2023

**Sabyasachi Bose @ Basu
-versus
The State of West Bengal & Ors.**

**Ms. Malabika Roy Dey
Mr. Arnab Mandal
...For the Petitioner.**

**Mr. Barin Banerjee
... for the K.M.C.**

**Mr. Pannalal Bandopadhyay
... For the respondent no. 4.**

The petitioner complains of illegal and unauthorised construction at the instance of the private respondent.

Allegation is that a toilet has been constructed adjacent to the premises of the petitioner. The foul smell and water of the toilet is causing nuisance to the petitioner.

Learned advocate representing the private respondent denies the allegation. It has been submitted that the toilet is in existence for a long period of time and no new construction has been made. Only renovation work of the toilet has been done.

Learned advocate representing the KMC produces the instruction signed by the Sub Assistant Engineer and the Assistant Engineer (Civil) (Building), Borough – IX on 16th May, 2023 wherefrom it appears that on receipt of a complaint, a spot inspection was conducted.

It appears that a two storied old structure stands at the site. It was found that there was existence of an unused toilet in the ground floor. Temporary arrangement for sanitation was made at the corner of the existing room with cloth in the ground floor and an existing toilet in the first floor has been renovated which is adjacent to the boundary wall of the petitioner. However, during inspection, seepage of foul water has not been seen.

The petitioner alleges that the toilet is creating nuisance to the petitioner as the same is just adjacent to the boundary wall of his premises.

Accordingly, the engineers of the Corporation are directed to conduct a further inspection upon prior notice to both the parties and to find out a solution to the problem that is being faced by the petitioner.

The inspection shall be conducted positively within a period of four weeks and the report of inspection shall be forwarded to both the parties. A decision shall be taken by the Executive Engineer of the concerned borough after giving a reasonable opportunity of hearing to both the parties positively within four weeks thereafter.

The reasoned order shall be passed and communicated to both the parties immediately thereafter.

The writ petition stands disposed of.

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

(Amrita Sinha, J.)