

24
16.10.2023
Court No. 24
AGM

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

WPA 12811 of 2023

**Sri Rajendra Sharma
-versus
State of West Bengal & Ors.**

**Mr. Souri Ghosal
Mr. Nirmal Sharka**

... For the petitioner.

**Mr. Sharanya Chatterjee
Mr. Avishek Bhandari
Mr. Dipayan Das**

... For the respondent nos. 6 and 7.

**Mr. Rajendra Chaturvedi
... For the Rishra Municipality.**

Affidavit-of-service filed today in Court be kept with the records.

The petitioner is aggrieved by the order passed by the Executive Engineer, Rishra Municipality mentioning that the Municipality will be bound to honour the condition of the partition deed which permitted construction by the parties in their respective portions without leaving the required statutory spaces.

Learned advocate for the petitioner submits that he was not a party to the partition deed. He, however, admits that his predecessor-in-interest was a party to the said deed.

Construction in question has been made in accordance with the House for All scheme by the Government.

Plan of partition of the subject property has been placed before this Court. It appears therefrom that a single plot was divided into three portions parallelly. There is no space in between the three portions. It appears that the partition was possible only because the parties accepted to raise construction without leaving the mandatory side open spaces. Had the mandatory side open spaces been left, then there would have been no space left for raising construction. The petitioner who has stepped into the shoes of the predecessor-in-interest will be bound by the terms and conditions of the agreement entered into at the instance of his predecessor-in-interest.

The municipality will, however, be bound to enquire and ensure that the construction is being made in accordance with the House for All scheme and not contrary thereto.

Copy of the partition plan be retained with the records.

No further relief can be granted to the petitioner in the instant case.

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.)