

Court No. 24

WPA 20020 of 2023

12.12.2023

(AD 36)

(S. Banerjee)

Mukti Ghosh

Vs.

The State of West Bengal & Ors.

Mr. Pinaki Dhole

Mr. Rabindra Kumar Pathak

... for the petitioner

Mr. Sudip Deb

Ms. Suman Singh

... for the State

Ms. Sonal Sinha

Mr. Avishek Prasad

... for the respondent nos. 2, 3 and 4

Mr. Dilip Kumar Samanta

Mr. Amarendra Chakraborty

Mr. Debapriya Samanta

Mr. Argha Banerjee

... for the respondent nos. 6 and 7

The petitioner alleges that the private respondents are making construction in such a manner that the private land of the petitioner has been encroached. The common passage in between the two premises has been encroached by the construction made by the private respondents.

The petitioner relies upon certain documents of the year 2005-06 in support of his submission that initially when the private respondents started such type of construction, the same was stopped at the instance of the English Bazar Municipality. The private respondents thereafter refrained from making such construction. All on a sudden in February, 2023 the construction has once again been initiated. Complaint was lodged before

the English Bazar Municipality but the same is alleged to be kept pending.

Learned advocate representing the private respondents submits, upon instruction that, construction has been made in accordance with the plan sanctioned within the area of the private respondents. The allegation of unauthorized construction has been denied.

Upon hearing the parties and upon perusal of the materials on record I am of the opinion that the issue of encroachment of common space ought not to be left for adjudication by the municipality. There are contrary claims of the parties. The same is required to be adjudicated upon taking evidence. It will be open for the aggrieved party to approach the civil forum for adjudication of the disputes.

The writ petition stands disposed of.

The report filed by the English Bazar Police Station be kept with the record.

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

(Amrita Sinha, J.)