

Item No.24

15.12.2023
Ct-24
AGM

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 21083 of 2023

Sekh Mohammad Abdul Hai
v.
The State of West Bengal & Ors.

Mr. Mohinoor Rahaman
Ms. Maria Rahaman
Ms. Iqra Rahaman
... for the petitioner.

Mr. Shahan Shah
Mr. Sirajul Haque Mondal
... For the respondent nos. 7 to 9.

Mr. Subhasis Bandopadhyay
... for the respondent nos. 2 and 3.

Mr. Pritam Chowdhury
Ms. Srabani Biswas
... for the State.

The petitioner complains of illegal and unauthorised construction of a shed which rests upon his boundary wall.

The private respondents submit that the shed rests upon their own boundary wall and not on the boundary wall of the petitioner.

The Municipality has conducted a spot inspection and has prepared a report and forwarded the same before this Court. From the said report it is not evident whether the tin shed rests upon the private wall of the petitioner or not.

The report of the Inspector-in-Charge, Burdwan Police Station mentions that during enquiry it was found that the private respondent constructed a shed in front of his house and the same is fixed upon his own building wall on one side and the other side rests on the boundary wall of the petitioner. The iron beams are fitted to the boundary wall with nuts and bolts.

Photographs of the disputed shed have been produced before this Court but from the said photographs it is not possible to ascertain as to whether the shed rests upon the boundary wall of the petitioner or on the boundary wall of the private respondent.

The Burdwan Municipality is directed to ascertain as to whether the shed in question rests upon the boundary wall of the petitioner. If it is found that the shed rests upon the boundary wall of the petitioner, then necessary steps shall be taken to remove the same.

The Burdwan Municipality is directed to conduct spot inspection upon prior notice to all the necessary parties to ascertain facts at the earliest but positively by 29th December, 2023 and remedial steps, if necessary, shall be taken 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.)