

**04-03-2024**  
Item No.15 ML  
**Subrata**  
**Bhattacharyya**  
AR(C)

**IN THE HIGH COURT AT CALCUTTA**  
Constitutional Writ Jurisdiction  
Appellate Side

**WPA No.4429 of 2023**  
**Naresh Sen & Ors.**

**-vs-**

**The State of West Bengal & Ors.**

Mr. Pritam Choudhury      ...for the petitioners

Ms. Sipra Majumdar  
Ms. Sangeta Roy      ...for the State

Mr. Udayan Datta      ...for the municipality

Mr. D. Kar  
Mr. S. Chowdhury      ...for the private respondents

Exception filed by the petitioners to the report dated July 4, 2023 of New Barrackpore Municipality is taken on record.

The allegation of unauthorised construction made by the petitioners was considered by the municipality. The report of the municipality mentions that a spot inspection was conducted to ascertain the nature and extent of unauthorised construction alleged by the petitioners. The municipal team, with all hindrances, measured the construction raised by the private respondents carefully, but nowhere along the side of the petitioners could deviation of any nature be noticed. The petitioners as well as the private respondents were present at the time of the spot inspection. The petitioners were unable to point out that there was serious breach of the building rules/sanctioned plan.

It also appears from the report that the municipal team, upon consultation of the title deed as well as the

sanctioned building plan of the private respondents and upon taking measurement in the presence of the parties, failed to find out any unauthorised construction as alleged by the petitioners.

Considering the above submission and upon perusal of the documents placed before this court, it appears that the municipality could not detect any unauthorised construction as alleged by the petitioners.

The issue relates to non-maintaining the mandatory side open spaces and non-ascertainment of the boundary line of the parties by the municipality.

The court is of the opinion that the municipality will not be the competent forum to adjudicate the dispute. The parties should be relegated to the competent civil court for relief.

In view of the above, no further relief can be granted to the petitioners in this writ petition.

The writ petition is disposed of.

Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]

