

10.12.2024
Sl.No.35
Ct. No.15
S.A.

WPA 10288 of 2024

**Shibendra Nath Bandhopadyay
-vs-
The State of West Bengal & Ors.**

Mr. Asis Bhattacharyya
...for the petitioner
Ms. Sonal Sinha
Ms. Shabnam Faruqui
...for Howrah Municipal Corporation
Mr. Anubrata Santra
...for the State
Mr. Abhilash Chatterjee
...for respondent no.8

The petitioner and respondent no. 8 are co-sharers of a property located at R.S. Dag no. 613 (Part), Khatian no. 624, L.R. Dag no. 883, Khatian no. 428. The property in question was partitioned by metes and bounds through a registered partition deed dated January 4, 2007.

It is undisputed that both parties are in possession of their respective portions as per the partition deed.

However, the petitioner seeks to demolish his portion of the property and undertake new construction, asserting that the existing structure is old, dilapidated, and unfit for habitation.

On the other hand, the learned advocate for respondent no. 8 has drawn the Court's attention to the relevant portion of the partition deed, which stipulates that the common wall and roof of the

property shall not be demolished by either party. He further submits that if the petitioner proceeds with demolition and construction, it may adversely affect the portion of the building in respondent no. 8's possession.

I am of the view that since the property has been demarcated by metes and bounds through a registered partition deed, the petitioner has the right to reconstruct his portion of the property. However, the construction should not endanger the structural stability of the building currently occupied by respondent no. 8. The concern raised by respondent no. 8 needs consideration, given that both parties share a common roof and boundary.

In light of the above, I dispose of this writ petition with the following directions:

The petitioner shall submit an application to the Howrah Municipal Corporation seeking a sanctioned plan for the proposed construction.

The Howrah Municipal Corporation shall consider the petitioner's prayer and grant the sanctioned plan in accordance with applicable laws and allow the petitioner to proceed with the construction in accordance with the approved plan.

The petitioner shall deposit a sum of Rs. 5,00,000 (Rupees Five Lakh only) with the Municipality as a security deposit to compensate

respondent no. 8 in the event, the building in his possession suffers any damage due to the demolition of the existing structure or the new construction to be raised by the petitioner.

The petitioner shall undertake the demolition work of part of the building under the supervision of a duly qualified engineer appointed by the Howrah Municipal Corporation, and shall bear the cost of such supervision.

Accordingly, **WPA 10288 of 2024** is disposed of.

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

(Kausik Chanda, J.)