

Sl. No.04
10.12.2024
Suman
Ct. 15

WPA 12364 of 2024

Goutam Ghosh
Vs.
The State of West Bengal and Ors.

Mr. Sanjib Seth
..for the petitioner

Mr. Rittick Chowdhury
Mr. Niladri Banerjee
Mr. Deepankar Thakur
Ms. Megha Das
..for respondent nos. 8 and 9.

Mr. Ayan Banerjee
Ms. Ujani Pal (Samanta)
..for the State

Mr. Sandipan Banerjee
Mr. Ankit Sureka
..for Howrah Municipal Corporation

Ms. Sumitra Das
..for the Special Officer

The petitioner raises a grievance regarding unauthorized construction carried out by respondent nos. 8 and 9 at premises no. 72, Deshpran Sasmal Road, Howrah-711101. This Court has appointed a Special Officer to investigate the allegations made in the writ petition, and the Special Officer has submitted her report.

The petitioner's primary concern in this petition pertains to the failure to maintain the mandatory side

open space on the western side of the building in question.

According to the report of the Licensed Building Surveyor, which is annexed to the Special Officer's report, it is evident that there exists a common boundary wall between the petitioner's property and that of respondent nos. 8 and 9, with a width of 0.810 meters.

When considering the midpoint of the width of the common boundary wall to measure the side open space, it is clear that the building has been constructed while maintaining the required four-foot side open space, in compliance with the sanctioned plan presented before this Court today.

The learned advocate for the petitioner contends that, in the case of new construction, the width of the boundary wall should not be considered in the measurement of the side open space. However, I find no merit in this argument.

The learned advocate for Howrah Municipal Corporation, on instruction, also submits that the side open space must be measured from the midpoint of the width of the common boundary wall.

Based on this submission, I find no evidence of any deviation from the sanctioned plan by respondent nos. 8 and 9.

As the construction was carried out in accordance with the sanctioned plan, maintaining the mandatory side open space, I find no grounds to entertain this writ petition.

Accordingly, **WPA 12364 of 2024** is dismissed.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)