

Item No.44

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

01.04.2024
Ct-24

WPA 13779 of 2023
Deba Prasad Basak & Anr.
v.
State of West Bengal & Ors.

Mr. Dipayan Kundu
... for the petitioners.

Mr. F. Ghaffar
... for the private respondents.

Mr. Jyoti Prakash Chatterjee
Ms. Rupsha Chakraborty
... for the State.

Mr. Gautam Lahiri
... for the Municipality.

The petitioners complain of illegal and unauthorized construction at the behest of the private respondents. Objection filed against such unauthorized construction is pending consideration.

The petitioners complain that because of the construction that is being made by the private respondents cracks have developed in the walls of the petitioners' structure which is just opposite to the construction that is being made by the private respondents.

It has been submitted that in between the structure of the petitioners and the newly constructed structure of the private respondents there is a gap of approximately 8 feet.

The petitioners contend that the gap between the two structures is not more than six feet.

Learned advocate representing the Municipality is not ready with instruction.

The report filed by the Inspector-in-Charge, Serampore Police Station dated June 23, 2023 be retained with the records.

As it appears that the writ petition is pending for a considerable period of time the Court is minded to dispose of the writ petition.

The Serampore Municipality is directed to cause a spot inspection upon prior notice to the petitioners as well as the private respondents to ascertain as to whether the cracks that have developed in the wall of the petitioners' premises are on account of the construction being made at the behest of the private respondents.

The Municipality is directed to circulate the spot inspection report and afford an opportunity of hearing to both the parties to make submission in support of their respective stand.

The Municipality shall decide as to whether any unauthorized construction has been made by the private respondents.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorized construction, in accordance with law.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

It is made clear that this Court has not entered into the merits of the claim made by the petitioners and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioners.

Learned advocate appearing for the petitioners is directed to forward a copy of the representation dated March 4, 2023 to the aforesaid respondent at the time of communicating the order of the Court.

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.

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(Amrita Sinha, J.)