

15.04.2024

**Sl. No.07.
Ct. No. 655
s.g.**

WPA/15209/2023

**Surajit Shaw
Vs.
The State of West Bengal & Ors.**

Dr. Bishnupada Dutta
....for the petitioner.

Mr. Debnarayan Banerjee,
Md. Ahasannzaman
....for the State.

Mr. Atis Kumar Biswas,
Ms. Poushali Banerjee
....for the K.M.C.

1. Learned Counsel appearing on behalf of the petitioner is present.
2. Learned Counsels appearing on behalf of the Kolkata Municipal Corporation and State are also present.
3. Affidavit of service filed on behalf of the petitioner be kept with the record.
4. It is stated by the petitioner that he is one of the thika tenants in respect of the Premises No. B/37/1A/1/H/2/1, Cossipore Road, K.M.C., Ward No. 1, within the jurisdiction of Police Station- Cossipore, Kolkata. It is further stated by the petitioner that the private respondent no. 11 claiming himself to be the owner of the property of the Premises No. 37/1A/1H/1, Cossipore Road of Ward No.1 of the Kolkata Municipal Corporation has made construction towards the Southern side of the common passage without taking sanctioned plan from the Kolkata Municipal Corporation violating the

relevant provision of the Act and Rules. The petitioner raised objection against the said construction but the private respondent did not pay any heed towards said objection made by the petitioner.

5. It is alleged by the petitioner that the private respondent made illegal construction by encroaching the Northen portion of the common passage and intended to install an iron gate over the said common passage.

6. Finding no other alternative petitioner made written complaint dated 07.06.2023 before the Opposite Parties No(s) 8 and 9 as it appears from the annexure 'P-5' of the application. Since receiving the complaint, the authorities concerned are silent and have not taken any steps, the petitioner under compelling circumstances made representation before the authorities concerned regarding non action of the local authorities which was sent on 17.06.2023 as it appears from the annexure P-6 of the application. As no step has yet been taken by the authorities concerned this petitioner finding no other alternative approached before this Court by filing this application with a prayer for passing appropriate direction upon the respondents no(s) 1 to 3 to take steps against the respondents no(s) 4, 5, 7, 8, 9 and 10.

7. At the time of hearing learned Counsel appearing on behalf of the Municipal Authority filed an inspection report prepared by the Executive Engineer (C), Building Department, Borough 1. Let it be kept with the record.

8. Accordingly, the Executive Engineer (Civil/Building)/Respondent No.8 is hereby

directed to consider and dispose of the complaint dated 07.06.2023 and representation dated 17.06.2023 made by the petitioner within four weeks from the date of communication of this order strictly in accordance with law.

9. A spot inspection shall be conducted to ascertain the nature and extent of allegation as made by the petitioner. In the event the aforesaid respondent is of the considered opinion that construction is being carried on without any adherence to relevant Act and Rule then necessary step shall be taken to deal with such construction immediately.

10. The opposite party no. 8 is further directed that the opportunity of being heard should be given to all the necessary parties before passing any order in connection with the application filed by the petitioners.

11. The aforesaid respondent shall restrict the consideration of the representation of the petitioner with regard to 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.

12. The petitioner is directed to forward a copy of the complaint dated 07.06.2023 being annexure P-5 and representation dated 17.06.2023 being annexure P-6 to the aforesaid respondent at the time of communicating the order of the Court.

13. All parties will be at liberty to rely upon documents in support of their stand at the time of hearing before the authority.

14. Accordingly, WPA No. 15209/2023 stands disposed of.

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

(Prasenjit Biswas, J.)