

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

WPA 25549 of 2023

**Prakash Kumar Pal
-versus
State of West Bengal & Ors.**

**Mr. Saikat Chatterjee.
...For the petitioners.**

**Mr. Niladri Sekhar Ghosh,
Mr. Sourav Mondal,
Ms. Sompurna Chatterjee,
Mr. Labani Sikder,
Mr. Rony Mondal.
...For the respondent no. 10 & 11.**

**Mr. Avishek Prasad.
...For State.**

**Mr. Suddadev Adak,
Ms. Richa Pramanik.
...For Municipality.**

The petitioner complains of illegal and unauthorized construction at the behest of the private respondents. The allegation is that the mandatory side open spaces have not been maintained at the time of raising construction. Provision of Rule 50 of the West Bengal Municipal (Building) Rules, 2007 has not been complied. Representations were filed before the Arambagh Municipality and also before the Divisional Engineer, WBSEDCL and the same is pending consideration for a considerable period of time.

Learned advocate representing the private respondents denies the allegation of the petitioner. It has been submitted that construction has been made in accordance with the plan sanctioned.

Learned advocate representing Arambagh Municipality submits, upon instruction that, the construction is in accordance with the sanctioned plan and being satisfied with the construction made, the completion certificate has been issued.

The petitioner has annexed photographs of the construction made. Prima facie, it appears that the side open spaces may not have been maintained at the time of raising construction. The engineers of the Arambagh Municipality are directed to cause a spot inspection upon notice to all the necessary parties to ascertain as to whether the construction has been made in accordance with the plan sanctioned and by maintaining the mandatory side open spaces. The report of spot inspection shall be circulated to all the parties.

Arambagh Municipality is directed to afford an opportunity of hearing to all the necessary parties and thereafter pass a reasoned order. All parties will be permitted to rely upon documents in support of their respective stand at the time of hearing.

A decision shall be taken in the matter at the earliest but positively within a period of twelve weeks from the date of communication of this order. If any remedial measure is required to be taken, then necessary steps shall be taken in accordance with law.

Affidavit of service is taken on record.

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

(Amrita Sinha, J.)