

Item No. 10

30.11.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 14918 of 2022
Debasish Deb Sharma
-vs.-
The State of West Bengal & Ors.

Mr. Rabilal Maitra
Mr. Anup Dasgupta
... for the petitioner.

Mr. Shyama Prasad Purkait
Ms. Moumita Mondal
... for the respondent nos. 7 & 8.

Mr. Bibek Jyoti Basu
Mr. Sanatan Panja
... for the State.

The petitioner is aggrieved by the action on the part of the Diamond Harbour Municipality in demolishing his boundary wall without giving any prior notice. Compensation has been sought for.

Learned advocate representing the Municipality has filed a report annexing copy of a notice which was sought to be served upon the petitioner prior to demolishing the boundary wall. The letter was, however, refused to be accepted by the staff of the petitioner who was present at the site.

It has been submitted that as the petitioner constructed the boundary wall over the public drain there was no requirement of serving prior notice upon him.

It has been submitted that the construction was made in such a manner that the entire sewerage water of the area got blocked and the entire area was flooded with dirty water. Rain water could not pass through and there was mass agitation praying for clearing the

stagnant water. For the purpose of clearing the drain, the portion of the boundary wall which was obstructing the flow of water had to be demolished.

Learned advocate for the petitioner denies the contention of the Municipality. It has been submitted that no effort was taken to serve prior notice upon the petitioner.

It has been admitted by the parties that as on date there is no blockage in the free flow of water.

The petitioner has admitted in the affidavit that he has encroached some portions of the public land at the time of construction of the boundary wall.

Whether the petitioner will be entitled to receive compensation or not has to be decided by a competent civil Court.

In view of the above, the instant writ petition is disposed of by granting leave to the petitioner to approach the appropriate forum for seeking compensation for the damages allegedly suffered by him on account of the demolition of the boundary wall without prior notice.

The writ petition stands disposed of.

Exception to the report filed by the petitioner in Court today 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.

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(Amrita Sinha, J.)