

17.09.2025
Ct. No. 30
S.L. No. 43
SM

WPA 3620 of 2022
With
CAN 1 of 2023
Chandrima Chatterjee
Versus
State of West Bengal & Ors.

Mr. Biswarup Mukherjee
Ms. Dolon Dasgupta
Mr. Soumya Ray
Mr. Tanumoy Kar
.....for the petitioner
Mr. Barin Banerjee
Ms. Tanushree Dasgupta
.....for the KMC
Mr. Malay Singh
Ms. Neelam Singh
.....for the State

1. The writ application has been preferred praying for direction upon the respondent authorities to make payment of the expenses of repair work incurred by the petitioner or to direct the respondent no. 9 to make such payment in due course.

2. In spite of due service, the private respondent no. 9 is not being represented. The petitioner submits that prayer (d) which relates to prohibiting the respondents from making further construction in the adjacent plot has now become infructuous as the construction is now complete.

3. The petitioner has annexed an inspection report conducted on her request which shows that there has been some prima facie damages in the property of the petitioner herein.

4. On careful perusal of the said report it does not appear that the said damages were caused by the construction made by the respondent no. 9 in the adjacent plot.

5. Affidavits are on record. CAN 1 of 2023 is pending, wherein an application has been made praying for leave to effect the repair work to the dwelling house and/or the premises of the petitioner in the manner as indicated therein and the cost for the same should be directed to be borne by the respondent no. 9 herein.

6. Learned counsel for the Kolkata Municipal Corporation has brought the notice of this Court to the document at page 34 of the supplementary affidavit filed by the respondent no. 9 wherein the respondent no. 9 has annexed a report submitted by the officers and engineers of the KMC.

7. The said report is at page 34 and it appears that the said inspection was conducted on the direction vide an order dated 09.11.2022, passed by the High Court in this case.

8. The relevant extract of the report is as follows.

*"1. With respect to serial no: 1. As mentioned in the above order. The **respondent repaired** only the hair crack at floor level by white cement. **But petitioner is not satisfied and she wants the total floor to be constructed new***

after chipping the old one i.e. the existing mosaic floor.

2. The respondent repaired the hair crack in the southern wall of the stair headroom by plastering and leaving few inches of the cracks for which petitioner is not satisfied.

3. Vertical crack portion in the front side boundary wall adjacent to premises D-60, Canal south road yet to be repaired.

4. Electric meter room could not be attended since C.E.S.C has not yet shifted the meter.

5. Some portion of the hair crack of western boundary wall has been repaired but remaining portion could not be without shifting of the electric meter.

6. Hair cracks on cupboard at ground floor has been repaired.

Ground floor cracks at side open space at some portion of western side has been repaired partly and the remaining portion could not be repaired since attached with the meter room.”

*Sd/-
Ex. Engineer (C)
Building Deptt.
Br-VIII
K.M.C*

9. It appears that even though the respondent no. 9 has repaired the hair cracks as noticed by the Corporation engineers, the petitioner herein is not

satisfied and has subsequently filed CAN application praying for further repairs of her house and has prayed that the cost be borne by the respondent no. 9.

10. From the report dated 30.11.2022 filed by the Corporation engineers, it appears that the petitioner wants the total floor to be constructed after removing the existing mosaic floor. Such indulgence cannot be adhered to and not tolerated by the Court's. The conduct and demand of the petitioner herein being unreasonable.

11. The writ application stands dismissed.

[Shampa Dutt (Paul). J]