

03.09.2026
rc/ct.no.15
Item No.32

WPA No. 24521 of 2025
Saumen Mondal & Anr.
Versus
The State of West Bengal & Ors.

Adv. Sandip Ghosh
Adv. Partha Sarkar ..for the petitioners

Adv. Partha Sarathi Basu
Adv. Suva Gayen for the State

Adv. Md. Hazanuz Zaman
Adv. Md. Z. Zaman ...for the private respondent

Affidavit of service filed by the petitioner is taken on record.

The petitioners have assailed the interim order passed by the Sub-Divisional Officer directing them to remove the portion of the pucca boundary wall constructed by encroaching upon the land of the private respondent herein. The Sub-Divisional Officer has also directed the parties to appear before him with relevant records, evidence and documents.

Learned counsel for the petitioners submits that the issue of encroachment can be decided by the Civil Court and the Sub-Divisional Officer has no authority to pass the order impugned.

Learned counsel for the private respondent submits that the petitioners have raised a boundary wall by

extending the existing construction in their land without obtaining sanction from the concerned authority.

The order impugned does not speak about any extension made by the petitioners in raising the boundary wall in dispute. By an order passed on May 28, 2025 in WPA No. 12075 of 2025 a coordinate Bench of this Court directed the Sub-Divisional Officer, Bardhaman Sadar, Purba Bardhaman to decide the application submitted by the private respondent alleging contravention of the provision of Section 23 of the West Bengal Panchayat Act, 1973 by the petitioners. Pursuant thereto, the order impugned has been passed.

In the said order, the Sub-Divisional Officer has dealt with the alleged encroachment of a portion of the private respondent's land by the petitioners and has recorded the submission of the private respondent that he is unable to access a portion of his building to undertake maintenance/repairing work for which his dwelling house is being damaged. The Sub-Divisional Officer has also called for relevant records, evidence and documents from the parties.

Deciding an issue of alleged encroachment of the land of the private respondent falls within the domain of the Civil Court. The dispute between the parties is essentially civil in nature, the private respondent alleging that the petitioners have raised boundary wall by encroaching upon his land. The Sub-Divisional Officer has

no authority to decide such issue or call for documents/evidence/relevant records to deal with the same. The Sub-Divisional Officer has exceeded his jurisdiction in dealing with the issue of alleged encroachment which is required to be dealt with by the appropriate civil forum.

In view of the above, the order impugned passed by the Sub-Divisional Officer, Bardhaman Sadar is quashed/set aside.

Liberty is granted to the private respondent to approach the appropriate civil forum to ventilate his grievance.

The writ petition is disposed of.

There shall, however, be no order as to costs.

Since no affidavit is invited, the allegations contained in the writ petition are deemed not to have been admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh,J)