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**W.P.A. No.6843 of 2020
With
CAN 1 of 2020 (Old CAN No.5881 of 2020)**

**Suprobhat Ghosh
Versus
The State of West Bengal & Ors.**

(Via Video Conference)

Mr. Sounak Bhattacharya,
Mr. Chandra Nath Sarkar ... For the petitioner.

Mr. Manoj Malhotra,
Mr. Debasish Chatterjee For the State.

Mr. Apurba Kumar Ghosh ... for respondent no.5.

CAN 1 of 2020 (old CAN No.5881 of 2020) is
disposed of by taking up the writ petition for consideration.

Petitioner complains of police inaction.

Learned Advocate appearing for the petitioner
submits that, there is a subsisting order dated January 16,
2020 passed by the revisional Court in C.O. No.4412 of
2019 (Suprabhat Ghosh –Versus – Sri Ashok Kumar Ghosh
& Ors.).

The State and the private respondent no.5 are
represented.

In the facts of the present case, there is a civil
suit pending. In such civil suit, an order dated November
28, 2019 was passed by the Learned Additional District
Judge, Fast Track Court, 6th Court at Alipore in Misc.
Appeal No.5 of 2019 arising out of an order dated

November 28, 2018 passed by the Learned Civil Judge (Junior Division), First Additional Court at Alipore in Title Suit No.8235 of 2011. A revisional application was directed against the order dated November 28, 2019 which was disposed of by an order dated January 16, 2020. The operative portion of the order dated January 16, 2020 of the revisional Court is as follows:

“Admittedly, the “A” schedule property is owned and possessed by the plaintiffs as also admitted by the defendants. The only question which arises is that whether the 75 sq.ft. of land, which is a “B” schedule property falls within the Plot No.463 or Plot No.464. the defendants have described the said area to be on the northern boundary wall of R.S. Dag No.464. Thus, the “B” schedule property as described in the plaint as also by the defendants in their written objection as also in the written statement is the bone of contention over which there is a boundary dispute. The dispute is not with regard to the entire “A” schedule property, but with regard to the 75sq.ft. of land (“B” schedule property), thus an order of injunction over the entire “A” schedule property, that is, over the entire Plot No.463 owned and possessed by the plaintiff which the defendants also admit cannot be granted, considering the balance of convenience and inconvenience. However, this is a boundary dispute with regard to the 75 sq.ft. strip of land over the northern wall of the defendants. Thus, the defendant alone cannot be directed to maintain status quo with regard to the “B” schedule property as described in the plaint and

in the written statement. The boundary dispute is admitted by the defendant. Both parties are restrained from making any construction or encroachment over "B" schedule property. If it is found that either party has encroached in Plot No.463 or 464 by making construction, then such construction will abide by the result of the suit and parties cannot claim any equity over the same."

There subsists an order of the High Court permitting the petitioner to make the construction as provided in the order dated January 16, 2020 passed by the revisional Court.

In such circumstances, the police authorities will ensure that, no breach of peace occurs at the locale when the parties to the Title Suit No.8235 of 2011 are acting in terms of the order dated January 16, 2020 passed by the revisional Court.

Petitioner is at liberty to apply for police picket, if so advised. In the event, the petitioner applies for the same, the police will consider such application, in accordance with law.

Needless to say that, the petitioner will pay such police picket, in accordance with law.

Learned Advocate appearing for the private respondent no.5 submits that, there is a contempt petition and review petition pending.

So long the order dated January 16, 2020 is operative, the parties are bound by it.

W.P.A. No.6843 of 2020 is disposed of.

No order as to costs.

(*Debangsu Basak, J.*)