

Daily List 18
Bpg.

December 24,
2020

**In the High Court at Calcutta
Constitutional Writ Jurisdiction
(Via Video Conference)**

W.P.A. No. 8887 of 2020

**Swapan Sikhdar
Versus
The State of West Bengal and others**

Mr. Prosenjit Mukherjee,
Ms. Madhurima Sarkar,
Mr. Tirthankar Mukherjee,
Mr. Saptanshi Chakraborty.
...for the petitioner.

Mr. Dipankar Aditya,
Mr. Rajes Jana,
Ms. Tina Biswas.
...for the private respondents.

The petitioner complains that the private respondents have been demanding that the petitioner purchases materials from the private respondents for the purpose of construction of a boundary wall surrounding the petitioner's own property.

Learned counsel for the petitioner contends that while making such construction without paying heed to the respondents' threats, the private respondents were threatened and harassed by the petitioner. As such, the petitioner, it is argued, had to lodge complaints before the police authorities, but to no effect. It is submitted that even subsequent to the

filing of the writ petition, the private respondents have been trying to raise construction on petitioner's property illegally, necessitating further complaints. In the above circumstances, the petitioner prays for a direction upon the police authorities to afford protection to the petitioner from such alleged illegal activities of the private respondents.

Learned counsel appearing for the private respondents categorically disputes the contentions of the petitioner and submits that the private respondents are armed with a valid purchase deed which shows that the property belongs to the private respondents and not to the petitioner.

Learned counsel also seeks to furnish copy of a transfer deed in such context.

The writ court does not have the jurisdiction to enter into disputed questions of fact necessitating detailed evidence. In the present case, the dispute does not revolve around police inaction simpliciter but also involves rival contentions between the petitioner and the private respondents as regards the title of the property. In the event the police are directed to afford protection to the petitioner without vindicating the petitioner's right, title and interest of the property-in-question, the writ court will be arrogating to itself the jurisdiction of the civil court without having the option of evidence being adduced at length.

In the circumstances, WPA 8887 of 2020 is disposed of by granting the petitioner liberty to approach the competent civil court for vindication of the petitioner's right, title and interest in respect of the property-in-dispute and, if necessary, to pray for necessary orders for the purpose of protecting such rights.

This Court has not gone into the merits of the rival contentions of the parties.

There will be no order as to costs.

Urgent website certified copies of this order, if applied for, be given to the parties upon compliance of all formalities.

(Sabyasachi Bhattacharyya, J.)