

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

**W.P.A. No. 865 of 2020
With
C.A.N. 1 of 2020**

**Subir Chatterjee
Vs.
The State of West Bengal & Ors.**

Mr. Subhasis Pachhal
... for the petitioner

Mr. Sk. Md. Galib,
Ms. Sujata Ghosh
...for the respondent-authorities

The petitioner complains of contravention of two decrees passed by Civil Courts in the petitioner's favour, by the private respondents, including the local Panchayat Pradhan, who allegedly obstructed the petitioner from constructing a boundary wall around the petitioner's premises on the strength of such decrees.

Learned counsel for the petitioner submits that the private respondents tried to assault the petitioner at the juncture when the petitioner started such construction work, compelling the petitioner to approach the police-authorities, but to no effect.

As per previous direction of this Court, the Officer-in-Charge, Jagatballavpur Police Station, HRD files an additional report, which discloses that the

petitioner had deposited the appropriate fees for raising construction but tried to malign the Pradhan in public. It is also disclosed that the Pradhan rejected the allegation of the petitioner that the Pradhan restrained the petitioner, through any Panchayat member, from constructing the wall. It is admitted by the police-authorities that the petitioner requested the police on June 23, 2019 to remain present while constructing the boundary wall. However, the O.C. states in the report that the dispute was “found to be purely civil in nature” and, since there was no specific order or direction from any “concerned authority” regarding the presence of police while constructing boundary wall by the petitioner, such presence could not be ensured.

It is now typical of the police-authorities to urge that disputes coming to them are civil in nature. Undoubtedly, in various writ petitions, civil disputes are frequently sought to be urged. However, in the present case, the civil courts had already passed final decrees in favour of the petitioner, thus, leaving no scope for the lame excuse that the matter was civil in nature. In the teeth of the civil courts’ decrees, there is no further scope for adjudication by a civil court or existence of a “dispute” which is civil in nature. Since there are specific decrees of the court in favour of the petitioner, there was no impediment for the police-

authorities to ensure the construction of the boundary wall peacefully by the petitioner.

However, since such police assistance would be in aid of implementing a civil court's *in personam* decree, it would only be appropriate that the petitioner pays the necessary costs for such police protection.

Accordingly, W.P.A. No. 865 of 2020, along with C.A.N. 1 of 2020, is disposed of by directing the respondent no. 3 to provide adequate police protection to the petitioner for the purpose of constructing the petitioner's boundary wall in respect of his own property, pursuant to the decrees of the civil courts, subject to the petitioner depositing the necessary costs for grant of such police protection, which shall be assessed and indicated to the petitioner by the police-authorities within a fortnight from date.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

Parties shall act on a server copy of this order without insisting upon prior production of the certified copy.

(Sabyasachi Bhattacharyya, J.)