

4<sup>th</sup> February,  
2021  
(AK)  
23

**W.P.A 8166 of 2020**

Nirmala Samanta  
Vs.  
The State of West Bengal & Ors.

Mr. Samirul Sardar  
...For the Petitioner.

Mr. Manoj Malhotra  
Mr. Munshi Mijanur Rahaman  
...For the State.

The grievance of the petitioner is that the private respondents, who are co-owners of the property with the petitioner in respect of the property-in-dispute, are obstructing the ingress and egress of the petitioner to such property.

Despite having approached the police authorities on several occasions, it is alleged that the police is inactive in the matter, prompting the petitioner to prefer the instant writ petition.

Learned counsel for the petitioner relies on copies of extracts of records of rights to vindicate the title of the petitioner.

Learned counsel for the private respondents admits that the petitioner and the private respondents are co-owners but disputes the allegation that the ingress and egress of the petitioner are being obstructed by the said respondents.

It appears *ex facie* that the dispute relates to title to the property and consequential rights. Although both the private parties admit to be co-owners of each other, there is nothing on record to substantiate any partition by metes and bounds having been effected between them in respect of the property.

In the absence of such partition, each of the co-owners, as well-settled, has right over every inch of the property.

For the purpose of asserting right to enter a particular portion of the premises, the extent of physical possession has, at least, to be established *prima facie* on evidence.

It is beyond the scope of a writ petition to enter into the merits of such detailed questions of fact, requiring documentary evidence and other materials to be considered.

The dispute being squarely civil in nature, it would only be appropriate if the petitioner approaches the competent Civil Court for resolution of the same.

Accordingly, W.P.A. 8166 of 2020 is disposed of by granting the petitioner and the private respondents the liberty to approach a competent Civil Court with the grievances as raised in the present writ petition.

If so approached, such Civil Court will decide the same and grant of interim orders if it deems fit, without

being influenced in any manner by any of the observations made herein.

There will be no order as to costs.

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

**(Sabyasachi Bhattacharyya, J.)**