

July 28, 2022
AD 25
Court No.1
SG

MAT 104 of 2022
with
CAN 1 of 2022

Nafil Ansari and others
vs.
Makim Ansari and others

Mr. D.K. Samanta,
Mr. Ashis Kumar Paul, Advocates
... for the appellants

Mr. Soumtira Mukherjee,
Mr. Debasish Ghosh, Advocates
... for the State

This intra-court appeal is at the instance of private respondent Nos.6 to 9 in the writ petition challenging the order of learned Single Judge dated 08.12.2021 whereby WPA 14450 of 2021 has been disposed of with certain observations. The typographical error in the said order was corrected by the subsequent order dated 15.12.2021.

The record reflects that the respondent No.1(writ petitioner) had approached the writ court with the plea that he is the owner in possession of the plot in question and his possession was interfered with by the appellants, therefore certain directions were sought including the direction to permit the writ petitioner to raise the boundary wall surrounding the property.

Learned Single Judge has disposed of the writ petition with a direction to concerned officer-in-charge of the police station to ensure that there is no breach of peace in the area where the writ petitioner resides and he is not in any way disturbed by his neighbours from peaceful living.

Submission of learned counsel for the appellants is that the writ petition itself was not maintainable and that the writ petitioner has no right on the property in question.

Learned counsel for the State has informed that the police is complying with the order of learned Single Judge and is maintaining vigil over the area.

We have heard learned counsel for the parties and perused the record. Record reveals that the appellants were private respondents in the writ petition and it is undisputed that the notice of writ petition was duly served upon the appellants but the impugned order reflects that in spite of service, appellants had not appeared before learned Single judge.

Learned Single Judge by the impugned order has not decided any civil rights of the parties and has issued a simple direction to maintain peace in the area. If the appellants have any civil right, then proper remedy available is to approach the competent court of civil jurisdiction and get the same settled. Even in the absence of direction of the court, it is the responsibility of the police authorities to maintain peace.

Hence, we find no reason to interfere in the order of learned Single Judge.

Accordingly, the appeal is disposed of.

[Prakash Shrivastava, C.J.]

[Rajarshi Bharadwaj, J.]