

30.06.2022
Sl. No.182
srm

W.P.A. No. 2345 of 2022

Ismail Mandal

Versus

The State of West Bengal & Ors.

Mr. Maidul Islam Kayal,
Mr. Anisur Rahaman,
Mr. Sumit Naskar

...for the Petitioner.

Mr. Pantu Deb Roy,
Mr. Subrata Guha Biswas

...for the State-respondents.

Despite service, none appears on behalf of the respondent Nos.9 to 11. Affidavit-of-service is taken on record.

Perused the police report. It appears that the dispute between the petitioner and the respondent Nos.9 to 11 is over construction of a boundary wall. The petitioner and the respondent Nos.9 to 11 were originally co-sharers in respect of RS Plot No.2387. Thereafter, by virtue of a final decree, the respective shares of the co-sharers were demarcated. The allegation is of encroachment.

On the basis of the complaint of the petitioner, the police authorities enquired into the matter. The construction work was stopped. Till now, the construction work has not commenced. Action was also taken by the police authorities in compliance of an order passed by the learned Sub-Divisional Executive

Magistrate, Domkal. As there was a possibility of breach of peace, prosecution under Sections 107 and 116(3) of the Code of Criminal Procedure was submitted against both the parties. The police report is taken on record.

Under such circumstances, the Court does not find that there has been any inaction on the part of the police authorities. No further order can be passed in this writ petition. However, the police shall maintain law and order. The other allegation of unauthorised construction, encroachment, etc. shall be decided by the civil court.

This order shall not be construed as an observation on the merits of the claims of the petitioner.

The writ petition is, thus, disposed of.

There will be no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)