

S/L 364(ML)
13.07.2022
Court. No. 19
GB

WPA 2385 of 2022

Ali Hossain Molla
VS
The State of West Bengal & Ors.

*Mr. Prantick Ghosh,
Mr. Siddhartha Sarkar.*

...for the Petitioner.

*Mr. Santanu Kr. Mitra,
Mr. Mirza Kamruddin.*

...for the State.

Affidavit-of-service filed in Court today, be kept with the record.

Despite service, none appears on behalf of the respondent nos.5 to 22.

The petitioner alleges that although the petitioner has a sanctioned building plan and permission to build on his portion of the land situated at R.S. Dag No.2004/3764 of Mouza-Maitagacha, J.L. No.187, under the Kirtipur-II Gram Panchayat, the respondent nos.5 to 22 have been continuously disturbing the construction. It is further submitted that, although a civil suit has been filed by the said respondents, no order of restrain or injunction with regard to the construction, has yet been passed. The petitioner complained before the police authorities. It is submitted that the police authorities have not taken any steps. Hence, the writ petition has been filed.

The police report is taken on record. It appears that there is a long standing dispute between the petitioner and the respondent nos.5 to 22 over demarcation of an ancestral property. The police authorities enquired into the matter and

apprehending serious breach of peace, submitted prosecution under Section 107 of the Code of Criminal Procedure against the said respondents. It also appears that previously cases and counter-cases were registered against the parties for commission of cognizable offences. Both the investigations concluded with the filing of charge-sheets.

Under such circumstances, this Court is of the view that the dispute is civil in nature and this Court cannot pass necessary orders permitting construction of the boundary wall. The remedy of the petitioner would be before the appropriate civil court. However, the police authorities shall maintain a strict vigil, in order to ensure that no untoward incident takes place in future.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

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

(Shampa Sarkar, J.)