

**FMA 95 of 2021
with
IA No. CAN 1 of 2020 (Old No. CAN 2715 of 2020)**

**(Mantu Debnath Vs. The State of
West Bengal & Ors.)**

**Mr. Bhaskar Chandra Manna
..... For the appellant**

**Mr. Pantu Deb Roy, Ld. Addl. G.P.
Mr. Subrata Guha Biswas
..... For the State**

**Mr. Nirmalendu Patra
Mr. Debnarayan Patra
..... For the respondent
nos. 7, 8 and 9**

The present appeal has been preferred challenging an order dated 11th March, 2019 passed in a writ petition, being W.P. 2007 (W) of 2019.

Mr. Manna, learned advocate appearing for the appellant submits that the appellant is the owner of the land in question and he wanted to construct a boundary wall upon his own property but he was forcibly prevented by the private respondents from raising such construction. Such facts were not taken into consideration by the learned Judge while hearing the writ petition.

He submits that the learned Judge also did not take into consideration the fact that the private respondents even went to the extent of physically torturing the appellant and his son. In the said conspectus, the learned Judge ought to have issued necessary direction

upon the police authorities to ensure that the appellant's right to life and property is protected.

He further submits that there was also a dispute amongst the parties relating to grant of electricity connection and the issue was relegated for consideration to the District Magistrate. Such facts were not taken into consideration by the learned Judge while hearing the writ petition.

Mr. Patra, learned advocate appearing for the private respondent nos.7, 8 and 9 submits that there is a pending title suit between the parties being Title Suit No. 10 of 2015. In the said suit, upon contested hearing, an interim order was passed way back on 19th January, 2017 directing both the parties to maintain *status quo* till the disposal of the suit. The said interim order is still operative and no steps have been taken by the appellant herein to vacate or modify the same.

Mr. Deb Roy, learned Additional Government Pleader appearing for the State submits that the dispute between the appellant and the private respondents is civil in nature. On the basis of the complaint lodged by the appellant, police authorities initiated a case being Marishda P.S. Case No. 9/16 dated 15th January, 2016 under Sections 147/149/323/324 of the Indian Penal Code and upon completion of investigation, charge-sheet has been filed in the same. In view thereof, the allegation

that the police authorities have failed to discharge their statutory duties, is unfounded.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

Indisputably, there is a civil dispute between the appellant and the private respondents and a title suit being Title Suit No.10 of 2015 is still pending. In the said suit, an interim order of *status quo* has been passed. In view thereof, the appellant's prayer to allow him to raise construction of boundary wall upon the concerned property has been rightly refused. The learned single Judge upon considering the factual matrix had arrived at a finding that the dispute between the parties is civil in nature and had also granted liberty to the appellant to avail his remedies from civil forum.

We do not find any infirmity in the said order and as such, no interference is called for in the present appeal.

Accordingly, the appeal, being FMA 95 of 2021 and the connected application for interim order, being CAN 1 of 2020 are dismissed.

There shall, however, be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Rai Chattopadhyay, J.)

(Tapabrata Chakraborty, J.)