

27.09.2022
Court No.13
Item No.24
AP

WPA 9803 of 2022

**Sk. Noorul Hooda
Vs.
State of West Bengal and Ors.**

Mr. Surojit Nath Mitra, Senior Advocate
Mr. Debabrata Saha Roy
Mr. Neil Basu
Mr. Rahul Gupta
Mr. Surojit Singh

... For the Petitioner.

Mr. Ansar Mondal, Additional Government Pleader
Mr. Sougata Mitra

... For the State.

Mr. Saptangsu Basu, Senior Advocate
Mr. Md. Ali Ahasan

... For the Respondent Nos.6 to 12.

The short question that arises for consideration in the instant writ petition is as to whether the order dated 19th August 2021 passed in WPA 21381 of 2019 can be enforced in a subsequent proceeding.

The facts of the case have already been recorded in the said order. There is a dispute pending between the petitioner and the private respondent on the title to the property. The petitioner claims to have received the same by gift from his mother and the private respondent Nos.6 to 12, claim a right under the previously recorded owner's oral gift.

By the earlier order dated 19th August 2021 (supra) and having considered the rival contentions of the parties, this Court had permitted the petitioner to construct a boundary wall on the said premises, which was done. Subsequent thereto the private respondents,

have broken the boundary wall and are using it as a playground.

Admittedly, there is a civil suit by the private respondents against the petitioner. There are proceedings in respect of the property pending before the WBLRTT. It is clearly specified in the order dated 19th August 2021 that the claims of the parties on the said land shall abide by any decision that may be passed in WBLRTT in O.A. 53 of 2019.

This Court is surprised to note that the Jagatballavpur Police, on the strength of a report of the BL&LRO dated 3rd August 2022 have allowed a boundary wall, constructed under the orders of this Court, to be broken and the private respondents have taken possession of the property and using it as a playground.

In these circumstances, the petitioner shall reconstruct the wall in question around the disputed land and fix a gate thereat.

The petitioner shall be entitled to remove the bar posts or any construction made by the private respondents.

The Jagatballavpur police station shall ensure strict compliance of the aforesaid order and the officer-in-charge shall be responsible for the same.

The Jagatballavpur Police Station is warned against any misadventure of violating this Court's order in future. The Superintendent of Police, Howrah Rural,

shall forthwith look into the conduct of the O.C., Jagatballavpur Police Station and take necessary action.

The circumstances under which the BL&LRO has chosen to suo moto give a report is unexplained. The conduct of the private respondents is ex facie illegal since the issues are pending adjudication before the WBLRTT.

The title dispute to the land, as already observed in the earlier order dated 19th August 2021, shall be decided by the WBLRTT in the pending O.A. 53 of 2019.

Needless to mention, the police and the private respondents shall strictly abide by any order that may be passed by the WBLRTT or any Civil Court.

With the aforesaid directions, the writ petition is disposed of.

There shall be no order as to costs.

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

(Rajasekhar Mantha, J.)