

12.07.2022
Court No. 19
Item no.100
CP

W.P.A. No. 11347 of 2022

Sk. Abdul Hai
Vs.
The State of West Bengal & ors.

Mr. Sujit Saha
...for the petitioner.

Md. Mansoor Alam
Mr. Mirza Kamruddin
...for the State respondents.

Mr. Achinta Banerjee
Mrs. Rupsha Chakraborty
Ms. Indamouli Banerjee
Mr. Ashish Dutta
....for the private respondents.

The petitioner prays for an order upon the Inspector-in-Charge, Panskura Police Station to assist the petitioner in the erection of a boundary wall, at his premises. It is submitted that despite being armed with an order of injunction and an order for police help from the learned Civil Judge (Junior Division) 3rd Court at Tamruk, the petitioner's right to construct a boundary wall, has been obstructed by the respondent nos. 6 to 8. Allegation is that the police authorities have failed and neglected to comply with the order of the learned court below.

Mr. Banerjee, learned advocate appearing on behalf of the respondent nos. 6 to 8, submits that the

order of injunction was obtained by practising fraud and, as such, the same is void. It is further submitted that the respondent nos. 6 to 8 are not in a position to take steps in the learned court below, as all proceedings have been stayed by this court in a civil revisional application.

From the orders passed by the learned court below, it does not appear that there was any observation with regard to the construction of a boundary wall. The learned court below observed that the defendants in the suit were trying to take away the paddy from the cultivable lands of the petitioner. Thus, the learned court restrained the said defendants from interfering with the peaceful possession of the petitioner/plaintiff therein, in respect of the 'ka' schedule property. Similarly, police help was also granted to ensure that the said order is not violated.

The police authorities have filed a report. The same is taken on record. It appears therefrom, that on receipt of a number of complaints from the petitioner, the police authorities had acted promptly and had registered as many as 20 cases. Investigations are going on. Report has also been filed before the learned civil court.

Under such circumstances, the question of permitting the petitioner to erect a boundary wall

with the assistance of the police, does not arise.
These issues have to be decided in the civil suit.

The police authorities are to ensure that the investigations are concluded in a proper manner and there is no violation of the order of injunction.

This court has not gone into the merits and demerits of the suits, which are pending.

The writ petition is disposed of.

There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)