

23.06.2022
Court No. 19
Item no.108
CP

W.P.A. No. 19558 of 2021

Abdul Chattar Mallick & ors.
Vs.
The State of West Bengal & Ors.

Mr. Mrinal Kanti Mukherjee

....for the petitioners.

Mr. Ashim Kr. Ganguly, Sr. Govt. Advocate
Ms. Karabi Roy

....for the State.

The grievance of the petitioners has been addressed. The police report has been produced. The police authorities, upon enquiry have come to the conclusion that a wall has been constructed by the respondent no. 8 on the common passage and there is a long standing dispute between the parties over the use of the common passage.

The police authorities have also recorded that the ingress and egress of the petitioners and their family members have been affected due to erection of the wall. The report is taken on record.

Both the parties were engaged in an altercation. On the basis of a complaint lodged by one Sirajul Mallick, Kashipur PS Case No. 250/22 dated May 28, 2022 was registered under Sections 341/323/325/354/427/506/34 of the Indian Penal

Code and on the basis of the complaint lodged by the family members of the writ petitioners, Kashipur PS Case No. 251/22 dated May 28, 2022 under Sections 341/323/325/504/34 of the Indian Penal Code has been started. Investigations were concluded and both the FIRs resulted in filing of charge-sheets.

The allegation of the petitioners has been accepted by the police authorities. Criminal cases are pending. However, the petitioners are at liberty to approach the appropriate forum for ensuring free passage to and from their building.

If the petitioners complain before the concerned panchayat authorities and police help is sought for, the police shall render necessary assistance to the panchayat authorities, in accordance with law. The rights of the parties over the common passage and the legality of the construction, in the nature of a boundary wall, have not been decided by this court.

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.)