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**In The High Court At Calcutta  
Constitutional Writ Jurisdiction  
Appellate Side**

**W.P.A 23383 of 2022**

**Sri Ratan Bhattacharya  
-versus  
The State of West Bengal & Ors.**

**Mr. Dilip Kumar Saila.  
...For the Petitioner.**

**Mr. Tapas Kumar Ghosh,  
Mr. Tanmay Chowdhury.  
...For the Respondent No.2.**

**Mr. Tapan Kumar Mukherjee,  
Ms. Tuli Sinha.  
...For the State.**

**Mr. Partha Pratim Roy,  
Mr. Soumya Bhattacharya,  
Mr. Balarko Sen,  
Mr. Atanu Bhattacharya.  
...For the Respondent  
Nos. 12, 13 and 16.**

The petitioner has filed the present writ petition, inter alia, praying for a direction upon the police authority to immediately stop/restrain the men, agents and labours from carrying on demolition/dismantling work at the subject premises.

It appears that the petitioner filed two writ petitions earlier before this Court being WPA 18484 of 2021 and WPA 21242 of 2022.

The petitioner's contention is that the private respondents were demolishing the 24 inches common wall which exists in the premises.

In the earlier writ report was filed before this Court by the Engineer of the Hooghly Chinsurah Municipality upon spot inspection of the premises, wherein it was mentioned that the Engineer did not notice any kind of demolition in the common wall.

The Court by an order dated 29<sup>th</sup> September, 2022 made it clear that the parties were restrained from dismantling the 24 inches common wall existing in the premises as mentioned in the deed of partition.

The petitioner asserts that the common wall is being demolished at the instance of the private respondents.

Learned advocate appearing for the private respondents produces copy of the plaint filed by the petitioner before the Learned Civil Judge, Junior Division, 1<sup>st</sup> Court, Hooghly at Chinsurah being Title Suit No. 6 of 2021.

In the said Suit, the petitioner has prayed for a decree of declaration that the 'E' scheduled property is common in between the parties and the common wall cannot be damaged/alterd or demolished.

Prayer for permanent injunction is that the common wall described in the E-scheduled property cannot be demolished or altered.

It has been submitted by the learned advocate appearing for the private respondents that though initially an interim order of injunction was passed by

the learned Court below restraining demolishing of the common wall, but subsequently, the said order was not extended.

Today, the learned advocate appearing for the private respondents as well as Municipality submits that no demolition/alteration has been made in the common wall.

The primary contention of the petitioner regarding demolition of the common wall is disputed both by the private respondents and the Municipality.

Accordingly, it will not be proper for the writ Court to enter and decide the issue upon facts seriously disputed by the parties.

It will be open for the petitioner to make appropriate application in the pending Suit for relief, if so advised.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

**( Amrita Sinha, J.)**