

20.03.2023
Item No. 62
AGM

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

W.P.A. 245 of 2023

**Rinku Debi
-versus
State of West Bengal & Ors.**

**Mr. Subhojit Chowdhury,
...For the Petitioner.**

**Mr. Pritam Majumdar,
...For the Municipality.**

Ms. Sujata Ghosh, ... For the State.

The petitioner complains of illegal and unauthorised construction at the instance of the respondent no. 6.

It has been alleged that the objection filed against such construction has not been answered by the Municipality.

Reference has been made to the communication made by the Sub Assistant Engineer and Surveyor, Bhatpara Municipality on 24th November, 2022 mentioning that on verification of the available municipal records from April 2019 till date no plan has been traced out for making construction over holding no. 2/5, East Ghosh Para Road, Ward No. 8.

The petitioner alleges that the private respondent is constructing boundary wall on the common passage. No sanction has been taken for construction of such boundary wall.

According to the provisions of the law, construction of boundary wall upto a particular level does not require any sanction from the authority.

If, according to the petitioner, construction is sought to be made over the common passage, the petitioner ought to approach the competent civil forum for declaration of her private right.

The Municipality will not be the appropriate forum to decide as to whether the land in question where the boundary wall is sought to be made is a common passage or not.

In view of the above, the instant writ petition is disposed of by granting leave to the petitioner to approach the appropriate forum for relief, if so advised.

Affidavit of service is filed today in Court be taken on records.

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.)