

31. 24.03.2023  
Court No.13  
Tanmoy Ghosh

**WPA 3177 of 2020**

**Sk. Mustak Halder  
-Versus-  
The State of West Bengal & Ors.**

**With  
IA No: CAN/1/2022**

Mr. Debasis Sur, Adv.,  
Mr. Badruddoza, Adv.

...for the petitioner/applicant.

Mr. Jaydip Banerjee, Adv.

...for the State.

Mr. Sumit Kumar Ray, Adv.,  
Mr. Munshi Ashiq Elahi, Adv.

...for the respondent nos. 10-12 & 18.

**In Re: IA No: CAN/1/2022**

Sufficient grounds are available to explain the absence of the petitioner on November 10, 2022. The said order is recalled.

The writ petition is restored to its original file and number.

The application being IA No: CAN/1/2022 is disposed of

**In Re: WPA 3177 of 2020**

The writ petitioner is aggrieved that the private respondents are obstructing him from effecting construction over five decimals of land belonging to him. The local SDO has ordered Police protection to the petitioner and posting of Police picket.

The private respondents are represented.

It is submitted that the petitioners and the private respondents are co-sharers in respect of a joint property. One title suit being T.S. No. 66 of 2020 is now pending before the learned 2<sup>nd</sup> Court of Civil Judge (Senior Division) at Hooghly Sadar, Chinsurah, seeking partition of the property.

In that view of the matter, in the absence of the property having been formally partitioned by a competent Court, the petitioner cannot on his own demarcate the property and effect any construction.

In that view of the matter, this Court directs the Polba Police Station to ensure that there is absolutely no breach of peace in the area. The Polba P.S. shall strictly comply with any orders that will be passed by the civil Court.

On the petitioner's complaint against the private respondents, the Polba P.S. has registered FIR No.164 of 2019 dated November 7, 2019 and has filed charge-sheet no. 158 of 2019 dated November 30, 2019, under Sections 341/323/354/504/34, Indian Penal Code.

Report of the Polba P.S. shall be kept with the records.

The writ petition being WPA 3177 of 2020 is disposed of.

**(Rajasekhar Mantha, J.)**