

06.06.2023
Court No.13
Item No.21
AP

WPA 4477 of 2023

**Ramesh Kumar Mondal
Vs.
The State of West Bengal & Ors.**

Mr. Tarunjyoti Tiwari
Mr. G.C. Baidya

... For the Petitioner.

Mr. Amitesh Banerjee
Mr. Tarak Karan

... For the State.

Mr. Swapan Kumar Pal
Ms. Rama Halder

... For the Respondent Nos.5, 7 & 8.

1. The petitioner is aggrieved that the private respondents are obstructing construction over his 5 decimals of land, which he purchased.

2. The predecessor-in-interest has 22.5 odd decimals of share in the said land of which 5 decimals have been sold to the writ petitioner.

3. The private respondents claim to have about 38 odd decimals of land.

4. Admittedly, the property has not been partitioned or demarcated to indicate the actual extent of the petitioner's land vis a vis the private respondents and other co-sharers.

5. A sanction plan could not have been issued to the writ petitioner in respect of the 5 decimals of an un-demarcated land.

6. Counsel for the private respondents submits that a partition suit being Title Suit with Filing No.297 of 2023 has been filed on 2nd June, 2023 before the learned 1st Additional Civil Judge (Junior Division) at Alipore. The writ petitioner is stated to be a party defendant in the said suit.

7. Let a copy of the said plaint be made available to the counsel for the writ petitioner.

8. This Court directs that the writ petitioner shall be able to construct on the basis of the sanction plan only after the property has been appropriately partitioned and the rights of each co-sharers and/or persons claiming under such co-sharers is demarcated and separated by metes and bounds.

9. Bhangore Police Station has drawn up proceedings under section 107 and 116 of the CrPC. The police shall, however, ensure that there is absolutely no breach of peace in the area.

10. With the aforesaid directions, the writ petition shall stand disposed of.

11. There shall be no order as to costs.

12. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)