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Ct 2023
No24
AGM

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

WPA 7101 of 2022

**Ratna Gayen
Vs
The State of West Bengal & Ors.**

**Mr. Md. Shahjahan Hossain
Ms. Sanjida Sultana
Mr. Prithmimay Biswas
... For the Petitioner.**

**Mr. G. A. M. Firot
Mr. Arun Shaw
... for Baduria Municipality.**

**Md. Jannat Ul Firdaus
... For the respondent no. 9.**

The petitioner complains that the private respondent has constructed a wall over the common passage creating obstruction in her free ingress and egress.

Learned advocate representing the private respondent submits, upon instruction that, the wall in question is a boundary wall and the passage is not the common passage. The boundary wall has been constructed by the private respondent to protect their private property.

The petitioner relies upon a report filed by the Executive Engineer, Baduria Municipality dated 5th May, 2018 wherefrom it appears that the private respondent admitted constructing the said wall and the Municipality came to the conclusion that the same is unauthorised as

no permission was sought for raising construction.

The specific contention of the private respondent is that the wall is a boundary wall constructed within the permissible height and the same does not require any sanction from the Municipality.

Photograph of the alleged wall has been produced in Court by the learned advocate representing the private respondents.

It appears from the submissions made on behalf of all the parties that the dispute is absolutely private in nature. There are several disputed questions of fact to be answered as to whether the wall in question is a boundary wall or not and whether the same has been constructed over the common passage as alleged or not.

Whether the private land of the petitioner has been encroached or not is also not clear.

These issues are to be decided upon taking evidence. The same cannot be done by the Writ Court.

Accordingly, the parties will be at liberty to approach the appropriate Civil Court for adjudication of their rights.

Photograph produced in Court is retained with the 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.)

