

27.04.2023
Ct. No.1
Item No.9
RP/KS

**M.A.T. 616 of 2023
With
IA No.CAN 1 of 2023
Kamal Arnab & Anr.
-Vs.-
State of West Bengal & Ors.**

Mr. Rafiqul Islam
Ms. Monika Sarkar

.....For the Appellants

Sk. Md. Galib, Sr. Govt. Adv.
Ms. Subhra Nag

.....For the respondents

1. This intra-Court appeal is directed against the order dated 22nd March, 2023 passed by the learned Single Bench in WPA 3544 of 2023. In the said writ petition the writ petitioners sought for protection from the respondent police authority for the purpose of putting up a boundary wall. Such a relief in a writ petition under Article 226 of the Constitution of India is not maintainable. Therefore, the learned Single Bench was right in not granting any relief.
2. Learned advocate appearing for the appellants points out that the civil proceedings are no longer pending and Title Appeal, being TA 37 of 1997, was disposed of in the year 1999. Learned advocate appearing for the State

pointed out that the prayer sought for in the writ petition is for the purpose of putting up a boundary wall and police have enquired into the matter and found the matter to be of civil nature. Thus, no relief can be granted to the writ petitioners/appellants and the appeal has to be dismissed. However, with regard to imposition of cost is concerned, the learned Single Bench is right in stating that the matter is not affecting the rights of a senior citizen under Article 21 of the Constitution of India to give a precedence in the hearing as the matter concerns immovable property. However, considering the fact that the appellants, who are more than 70 years of age, we delete the cost which has been imposed on the appellants.

3. Accordingly, the appeal and connected application stand dismissed. Liberty is granted to the appellants to avail their remedy in accordance with law.

(T. S. SIVAGNANAM)
ACTING CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)