

24.07.2023
Item No. 114
BR

WPA 9173 of 2023

Shri Abhishek Bhakat
-VS
The State of West Bengal & Ors.

Mr. Swarup Paul,
Mr. Guru Saday Dutta,
Mr. Anish Roy
.... For the Petitioner

Sk.Md. Galib
Mr. Gourav Das
.... For the State
Mr. Subrata Karmakar,
Md. Abdul Alim
... for the Pvt. respondents

This is an application under Article 226 of the Constitution of India praying for direction upon the respondent authorities to provide police assistance to the petitioner to construct boundary wall on his plot.

Affidavit of service filed on behalf of the petitioner is taken on record.

Report filed by the State is taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner purchased the land in question after executing a deed of exchange. The boundary of the land is already demarcated.

The private respondents are some local inhabitants who claimed that they have a vegetable market at portion of the land where the petitioner intends to put up a boundary wall. The private respondents have also demanded Rs. 10,00,000/- for not creating any trouble.

Learned advocate for the private respondents submits as follows. They are the local vegetable vendors. The petitioner is trying to encroach upon the land in which they are having their shops. They have not demanded any extortion money.

Learned counsel appearing for the State relies upon the report and submits as follows. On the complaint filed by the petitioner the police have already taken steps and a proceeding was started under Section 107 of the Code of Criminal Procedure. So far as the prayer for police help is concerned the same can be done only if an appropriate demarcation is made by the petitioner with the help of the BL and LRO. However, the authorities cannot demolish any structure inside.

I have heard the learned counsels for the parties and have perused the writ petition and the report filed by the State.

So far as construction of the boundary wall is concerned proper demarcation has to be done with the help of BL and LRO. Then only the petitioner's prayer for police help can be considered in accordance with law.

However, apparently there are certain structures inside the plot. If an attempt to demolish this is contested, then appropriate order will have to be obtained in this regard.

So far as complaints against the private respondents about creating disturbances are concerned, the police have already taken some steps. A proceeding under Section 107 of the Code of Criminal Procedure was started. If a cognizable case is made out, the police shall be at liberty to register an FIR.

No further interference is necessary at this stage.

However, police authorities shall be vigilant so that no breach of peace takes place.

With these directions, the writ petition is disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties as expeditiously as possible.

(Jay Sengupta, J.)