

22.06.2023.
Court No.13
Item No. 5
ap

W.P.A. No. 11317 of 2023
Sri Mukto Polley & Anr.
Versus
The State of West Bengal & Ors.

Mr. Soumya Basu Roy Choudhuri,
Mr. Sarbenanda Sanyal.

...For the petitioners.

Mr. Dev Kumar Sharma.

...For the respondent nos.7 & 8.

Mr. Tanmoy Mukherjee,
Mr. Souvik Das,
Mr. Rudranil Das.

...For the respondent nos.5 & 6.

1. Affidavit-of-service filed in Court today be taken on record.
2. The petitioners complain that the private respondents have broken a boundary wall belonging to the petitioners.
3. Admittedly, there are four civil suits being Title Suit No. 430 of 2023, Title Suit No. 435 of 2023, Title Suit No. 451 of 2023 and Title Suit No. 452 of 2023 pending before the learned 6th Civil Judge (Junior Division) at Howrah between the parties in respect of their lands.
4. There is an order of status quo in the civil suits. The petitioners are the defendants in some of the aforesaid suits. The petitioners, according to the private respondents, are not participating in the civil proceedings.

5. Counsel for the petitioners submits repeatedly and despite being warned by this Court, that this Court should interfere and permit him to construct the boundary wall with direction upon the police, notwithstanding the issue of the petitioners' civil rights in the property vis-à-vis the private respondents pending adjudication in the aforesaid civil suits.

6. This Court is of the clear view, as was indicated to the Counsel for the petitioners that the police cannot enter into the boundary disputes or demarcate any land between the petitioners and the private respondents.

7. The petitioners claim a purported demarcation by the Block Land & Land Reforms Officer, Jagacha. Likewise the private respondents also claim a separate demarcation.

8. The aforesaid disputes cannot be gone into either by the police or the Writ Court under Article 226 of the Constitution of India. The allegation that the private respondents are using members of some political party to exert pressure on the petitioners is noted.

9. Since the parties are already before a Civil Forum, it would be appropriate for such Civil Court to decide the extent and boundaries of the petitioners vis-à-vis the private respondents. The petitioners may approach the Civil Court with their submissions that there is no dispute with regard to their boundary and the extent of their land vis-à-vis the private respondents.

10. Despite the aforesaid being repeatedly explained to the Counsel for the petitioners, he has insisted on continuing to argue the matter.

11. In the aforesaid circumstances, this Court reserves liberty to the parties to make their respective claims in the pending civil suits or any other civil or statutory proceedings that the petitioners may institute in accordance with law.

12. With the aforesaid directions, the instant writ petition shall stand disposed of with cost assessed at Rs.7,500/- (Rupees seven thousand five hundred only) payable by the petitioners to Dasnagar Police Station. The payment of cost by the writ petitioners herein shall be ensured by the Court below.

13. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)