

13 18.05.2023
RP Ct. No. 01
AN

MAT 812 of 2023
with
IA No. CAN 1 of 2023

Sri Apu Dey
Vs.
Mitali Nandy & ors.

Mr. Buddhadev Ghosal
Mr. Souri Ghosal
... For the Appellant

Mrs. Chaitali Bhattacharya
Mr. Mrinal Kanti Biswas
... For the State

Mr. Syed Mansur Ali
Mr. Subhrangshu Nath Sarkar
... For the respondent

1. Heard learned counsel for all the parties elaborately.

2. This intra-Court appeal is directed against the order dated 24.04.2023 by which the learned writ court had directed police picket to be placed in the writ petitioner's residence to enable them to construct a boundary wall.

3. Admittedly, a civil suit is pending at the instance of the appellant who sought for a decree for declaration of Schedule "C" passage to be a common passage and the same is the only free ingress and egress to and from Schedule "A" suit property. In the pending suit, appellant had sought for an interim relief of the injunction which has been rejected by the learned trial court by order dated 10.05.2023.

4. Learned counsel for the appellant submitted that as against the said order passed by the civil court, steps have been taken to prefer an appeal. In any event, we are of the considered view that the learned writ court ought not to intervene to such issue specially when the civil court has seized the matter. Therefore, we give liberty to the respondent/writ petitioner to move the civil court by way of an appropriate application for necessary directions.

5. With the above observations, the appeal stands **allowed in part** to the extent as indicated hereinabove. Consequently, the connected application also stands disposed of.

(T. S. Sivagnanam)
Chief Justice

(Hiranmay Bhattacharyya, J.)