

20 **25.01.2023**

gd/ssd

MAT/1209/2022
IA NO: CAN/1/2022
BHANUMATI DEVI RAJBHAR AND ORS.
VS
THE STATE OF WEST BENGAL AND ORS.

Mr. Bidyut Kr. Halder,
Mr. Indranil Halder
..for the Appellants.

Ms. Srilekha Bhattacharya
..for the State.

Mr. Rishav Singh,
Mr. Abhishek Bagal
..for the Respondent No.4.

The appellants are aggrieved by the order of the learned Single Judge dated 4th July, 2022 by which WPA 18544 of 2021 has been disposed of with certain directions.

The appellants had filed the writ petition with the plea that the private respondent with the two sons is the trespasser in the premises and had obstructed the construction of boundary wall by the appellants and on the complaint of the appellants, no action was taken by the police authorities. Hence, prayer was made in the petition seeking a direction to the respondents to render all possible police assistance to the appellants in constructing the boundary wall without obstruction.

Learned Single Judge has taken note of the fact that the husband of the private respondent was

inducted as tenant and after his demise the private respondent is continuing in possession of the property. It has also been noted that earlier appellants had filed the petition seeking orders for disconnection of the water supply line of the tenant. The prayer was not granted by this Court. Thereafter another petition for disconnection of the electricity supply line was filed, but in that also no interference was done. Hence, the learned Single Judge took note of the plea that it was a third attempt to create disturbance in the occupation of the private respondent no.4.

Learned Single Judge has disposed of the petition by taking on record the stand of the respondent no.4 that she had not created any disturbance in construction of any boundary wall.

Learned counsel appearing for the appellants has submitted that as per the instructions available with him, the private respondent is creating obstruction in construction of the boundary wall.

As against this, submission of learned counsel for the private respondent is that the private respondent has no objection in construction of the boundary wall, but sufficient space is not available for the construction of the boundary wall and that as against the sanctioned plan of G+1, the appellants are raising unauthorised construction of G+4, which is currently under

construction and the municipal corporation has registered BMR case.

The plea, which is raised by the counsel for the parties before this Court, indicates that the relevant facts are in dispute and that it is a dispute of pure civil nature which exists between the parties and for such a dispute no writ is required to be issued.

In the aforesaid circumstances of the case, learned Single Judge has committed no error in taking on record the stand of the private respondent. Hence no case for interference in the order of learned Single Judge is made out in this appeal.

The appeal is accordingly dismissed.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)

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