

08.02.2023
Item No.M/L. 59.
Crt. No.24.
KB

W.P.A. 19201 of 2021

Joy Chakraborty
Vs.
The State of West Bengal & Ors.

Mr. Kunal Ganguly
Mr. Tirthankar Mukherjee
Mr. Saptarshi Chakraborty
Ms. Sucheta Pal
Mr. Subhashri Samanta
... For the petitioner.

Mrs. Sanghamitra Nandy
Mr. Rajaram Banerjee
... For the State.

The petitioner complains that the respondent no.7 has illegally encroached the private land of the petitioner and constructed boundary wall with a gate.

The petitioner submits that a proceeding under Section 144 (2) Cr.P.C. was moved before the Learned Executive Magistrate, Barrackpore, North 24-Parganas.

The petitioner filed a representation before the Municipality objecting to such unauthorised construction of boundary wall and alleges that the said representation has not been taken up for consideration by the Municipality till date.

It appears from the submissions made on behalf of the petitioner that the primary allegation is of encroachment of private land of the petitioner.

As regards the construction of the boundary wall without the sanction, the provision of law does not require a sanction for the purpose of raising boundary wall upto a particular height.

Learned advocate for the petitioner submits that a civil suit has also been filed in respect of the said plot of land and the same is pending consideration.

This Court is of the opinion that the Municipality will not be the appropriate authority to decide as to whether there has been any encroachment of the private land of the petitioner by the private respondent.

As civil suit is pending consideration with regard to the declaration of the right of the petitioner in respect of the land in question, accordingly, the petitioner will be at liberty to agitate his grievance before the said forum in accordance with law, if so advised.

The State is represented.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Amrita Sinha, J.)