

Item No.245

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

27.09.2023
Ct-24
AGM

WPA 20758 of 2023
Smt. Karabi Barik & Anr.
versus.
The State of West Bengal & Ors.

Mr. Amit Baran Dash
Ms. Ankana Sarkar
...For the petitioners.

Mr. Bhudeb Chatterjee
...For the private respondent.

The petitioner seeks implementation of the order dated 10th November, 2022 passed by the Contai Municipality whereby the private respondents have been directed to remove the gate installed in the common passage.

The Court is of the opinion that it is not the duty and function of the Municipality to decide the private rights of the parties. It was no business on the part of the Municipality to decide as to whether the passage is common in between the petitioners and the private respondents.

Installation of the gate per se is not an act which can be treated as unauthorized construction. The petitioners ought to approach the appropriate forum for declaration of right over the private passage. Anybody

who intends to defend private right over a common passage, ought to approach the appropriate forum.

The writ petition fails and is hereby dismissed.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)