

**13.04.2023**  
Item No.2  
Ct. No.1  
PG/KS

**M.A.T.1601 of 2022**  
**With**  
**I.A. No. CAN 1 of 2022**  
**+**  
**CAN 2 of 2022**

**Pinki Roy & Anr.**  
**Vs.**  
**The State of West Bengal & Ors.**

Mr. Debabrata Sardar  
Mr. Sunny Nandi  
Mr. M. K. Maity  
Mr. Subha Pathak  
.....For the Appellants

Sk. Md. Galib  
Ms. Piyali Sengupta  
.....For the State

Mr. Samrat Sen, Sr. Adv.  
Ms. Ehsashan Huda  
Sk. Aftabuddin  
.....For the Respondent No.6

1. This intra Court appeal by the writ petitioners is directed against the order dated 5<sup>th</sup> August, 2022 in W.P.A. No.11758 of 2022. The said writ petition was filed alleging police inaction and a prayer was made to direct the police authorities to facilitate the construction of boundary wall by the appellants.
2. The learned Single Bench has disposed of the writ petition with certain observations. After elaborately hearing the learned advocates appearing for the parties, we find that this is the 8<sup>th</sup> writ petition filed by the appellants concerning

the very same property. As noted by the learned Single Bench, the proceedings under the Urban Land (Ceiling & Regulation) Act, 1976 is underway and a final statement, which was initially published and set aside for further enquiry, enquiry has been proceeded and the final statement is yet to be issued. In the meantime, the appellants want to construct a boundary wall. There is also a civil suit pending at the instance of a tenant and there are also co-sharers of the property, who are respondents in this appeal.

3. Thus, the learned Single Bench rightly held that granting police protection to the appellants and permitting them to construct the boundary wall would amount to declaring the rights of the writ petitioners in respect of the property regarding which a vesting proceeding is still pending under the said Act. Further, the learned Single Bench noted that such proceeding is initiated on the basis of a direction issued in another writ petition and the rights of the other co-sharers have also not been decided and the rights of the tenant is sub-judiced before the learned Civil Court.

4. Thus, we find that there is no error in the order passed by the learned Single Bench for us to interfere.
5. Accordingly, the appeal fails and is dismissed.
6. The respondent no.6 has filed CAN 2 of 2022 and seeks permission to withdraw the said application with liberty to proceed in accordance with law. Such application is dismissed as withdrawn with liberty to approach before the appropriate forum in accordance with law.
7. There shall be no order as to costs.
8. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

**(T.S. SIVAGNANAM)**  
**ACTING CHIEF JUSTICE**

**(HIRANMAY BHATTACHARYYA, J.)**