

12.06.2023
Court No.13
Item No.271
pk

WPA 23199 of 2022

**M/s. Fab Leathers Limited
Vs.
The State of West Bengal and Ors.**

Mr. Debjit Mukherjee
Ms. Mobina Ali

... For the Petitioner.

Mr. T.M. Siddiqui
Ms. Piyali Sengupta

... For the State.

Mr. Rohit Das
Ms. Kiswar Rahman

... For the respondent no.13.

1. The petitioner claims that he has been permitted by the District Judge to repair a boundary wall which is the subject matter of T.S. No.296 of 2022 and Misc. Appeal No.56 of 2022.
2. The memo sanctioning lease based on which the petitioner claims rights over the property is 1736-LP/2P-10/19.
3. In course of the proceedings, Rajabagan Police Station under which the entirety of the property fell came to be divided between two police stations, i.e. Rajabagan Police Station and Nadial Police Station.
4. The petitioner has been able to reconstruct and repair the broken boundary wall on three sides. Nadial Police Station has communicated the costs of deployment of force for enabling the petitioner to reconstruct boundary wall on the remaining side.

5. Learned counsel for the State expresses doubts as to whether the boundary wall on the remaining side falls within the expression suit property under Scheduled A, B and C to the plaint in the said suit.
6. Given the apprehension and reservation of the counsel for the State, this Court requests Additional District Judge, 5th Court, Alipore to take up an application that the writ petitioner shall file immediately in Misc. Appeal No.56 of 2022 and dispose of the same in accordance with law within two weeks thereof.
7. The object and purpose of the application is to enable the court below to apply its mind to the extent of the suit property. Particularly, the Court below shall look into as to whether the boundary wall that the writ petitioner intends to construct is within the suit property being Scheduled A, B and C or otherwise.
8. If the plaintiff/writ petitioner's contention is correct, the property sought to be covered under the boundary wall that is to be constructed, would fall under the jurisdiction of Nadial Police Station. The Additional District Judge, 5th Court, Alipore, shall pass appropriate orders.
9. Nadial Police Station shall strictly and expeditiously, comply with the order of the Additional District Judge.
10. The writ petition is disposed of.

11. There will be no order as to costs.
12. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)