

09.01.2023
Sl. No.25(DL)
srm

W.P.A. No. 28968 of 2022
Chandan Kumar Bhowmick
Versus
The State of West Bengal & Ors.

Mr. Pijush Kanti Hazra,
Mr. Sabyasachi Hazra

....for the Petitioner.

Mr. Jahar Dutta,
Mr. Bipin Ghosh

...for the State-respondents.

Mr. Mohan Kumar Putatunda

...for the Respondent No.8.

Affidavit-of-service is taken on record.

By this writ petition, the petitioner prays for implementation of the order passed by a learned co-ordinate Bench of this Court dated July 22, 2022 in WPA No.1332 of 2019. In essence, the petitioner prays for cancellation of the sanction granted in respect of the construction of the respondent No.8. The only ground for such challenge is that the sanction was granted in respect of an unpartitioned property. The petitioner also resides in his house on the selfsame property.

In the meantime, a preliminary decree has been passed upholding the shares of both the petitioner and the

respondent No.8. The parties have been directed to effect partition in terms of the preliminary decree by meets and bounds.

The parties are now at liberty to settle the issue and divide the property and if possible the portion enjoyed and occupied by each of the parties shall be maintained to the maximum amount possible. If such amicable partition cannot be entered into by and between the parties, they shall be at liberty to approach the learned civil court for appointment of a partition commissioner. All constructions made by the parties shall be subject to the final decree.

It is made clear that ingress and egress of a particular co-sharer cannot be obstructed by another co-sharer until the final decree is passed after the parties have demarcated their individual portions. If further obstructions are created, the remedy of the parties would be in the civil suit.

The writ petition is, thus, disposed of

There shall be no order as to costs.

Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)