

11 **01.02.2023**

gd/ssd

MAT/2096/2022
IA NO: CAN/1/2023, CAN/2/2023

SRI NITAI CHAND HALDER AND ORS.
VS
THE STATE OF WEST BENGAL AND ORS.

Mr. Saurabh Guhathakurta,
Ms. Sarda Sha,
Ms. Nilanjana Sarkar
..for the Appellants.

Mr. Amitesh Banerjee,
Ms. Ipsita Banerjee,
Mr. Suddhadev Adak
..for the State.

By this intra court appeal the appellants (writ petitioners) have challenged the order of the learned Single Judge dated 5th December, 2022 whereby WPA 20547 of 2022 has been disposed of reserving rights of the petitioners to approach an appropriate forum with regard to their rights in respect of the property in question.

The appellants had approached the Writ Court with the plea that entire piece of land originally belonged to one Gyanadamoyee Dasi, who had left behind nine legal heirs and the said legal heirs had transferred the piece of land to the appellants. Further plea was raised that land measuring 3.15 acres was acquired by the Government of West Bengal. The cause

of action for approaching the Writ Court was alleged obstruction in construction of the boundary wall by the appellants. Hence, prayer was made in the petition seeking a direction to the official respondents to render necessary police assistance to the appellants at the time of construction of boundary wall.

Submission of learned counsel for the appellants is that the order of the Division Bench dated 11th May, 2012 passed in MAT 513 of 2012 has not been considered by the learned Single Judge and that the communications dated 15th June, 2017 and 29th June, 2017 were issued by the competent authorities for the purpose of demarcation of land, but no action was taken, therefore, in terms of Section 13 of the Police Act, the appellants were entitled to the police help for the purpose of construction of the boundary wall.

Learned counsel for the State by opposing the appeal has submitted that the land has not been demarcated so far and that it cannot be ascertained that the appellants will be constructing the boundary wall only on his part of the land and the police does not have power to decide the issue of demarcation.

We have heard the learned counsel for the parties and perused the record.

It is undisputed before this Court that the land has not been demarcated so far, therefore, learned

counsel for the State has rightly contended that without demarcation of the land it cannot be ascertained as to which part of the land belongs to the appellants or that the appellants will be constructed the boundary wall only on his part of the land. Though the order of the Division Bench passed in MAT 513 of 2012 has been referred to which contains a direction relating to demarcation, but nothing has been pointed out to show that any action was taken if the said order was not complied with. In the said circumstances, the prayer made in the writ petition for extending police protection for the purpose of construction of boundary wall has rightly been refused by the learned Single Judge. The reliance of the learned counsel for the appellants on Section 13 of the Police Act, 1861 is misplaced because the said Section relates to providing additional police force at the cost of individual to keep the peace at any place within the general police district. Such limited provision cannot be invoked to extend the police help for the purpose of construction of boundary wall specially when there is a factual dispute in this regard.

Hence, we find that the order of the learned Single Judge does not suffer from any error and no case for interference in the order of learned Single Judge is made out in this appeal.

The appeal is accordingly dismissed.

In view of dismissal of the appeal, the connected applications are also disposed of.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)

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