

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE

The Hon'ble **JUSTICE BIBEK CHAUDHURI**

WPA 122 of 2023

**Uttarbango Industries Private Limited
Vs.
The State of West Bengal and Ors.**

Mr. Nigam Mittal
Ms. Aayushi Agarwal
 ..for the petitioner
Mr. Deborshi Dhar
 ...for Siliguri Municipal Corporation

Mr. Bikramaditya Ghosh
Ms. Bedashruti Bose
 ...for the State

Item No. 09

Judgment on: 30.01.2023

BIBEK CHAUDHURI, J. : –

The respondent No.3 Siliguri Municipal Corporation is the principal respondent in the instant writ petition.

It is the case of the petitioner that the petitioner is the owner of a piece of land measuring approximately about 4.51 acres in R.S. Khatian No.682 of Mouza – Binnaguri within P.S. Bhaktinagar (now NJP). Respondent No.3, Siliguri Municipal Corporation is the recorded owner in respect of 8.97 acres of

land adjacent to the land of the petitioner. A long standing dispute is going on between the petitioner and the respondent No.3 over the demarcation of their respective properties. The petitioner filed an application under Section 144(2) of the Code of Criminal Procedure before the concerned Executive Magistrate. The said application was disposed of directing the BL& LRO to take measurement of both the lands and demarcate the same according to the ownership of the petitioner and the respondent no.3. The BL&LRO could not proceed with the said matter as, it is alleged, the respondent No.3 is not appearing in the hearing before the BL&LRO. It is also alleged that in the meantime the respondent no.3 has already started construction over the land encroaching upon a portion of the land of the petitioner.

Having heard the learned advocates for the parties and the learned Government Pleader this Court is of the view that the dispute between the petitioner is absolutely civil in nature and efficacious relief of the petitioner lies in filing a suit for declaration and permanent injunction in the competent civil Court.

Where efficacious relief is available otherwise, this Court does not have jurisdiction and accordingly, the instant writ petition is dismissed giving liberty to the petitioner to approach the competent civil Court for redressal of his grievance.

The writ petition is, thus, disposed of.

(Bibek Chaudhuri, J.)