

ORDER

OD – 12

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APO/96/2022
WITH
WPO/2581/2022
IA NO. GA/1/2022
GA/2/2022
MINATI KUNDU
VERSUS
RAJ GUPTA AND ORS.

BEFORE:

HON'BLE CHIEF JUSTICE PRAKASH SHRIVASTAVA
HON'BLE JUSTICE RAJARSHI BHARADWAJ

Date: 3rd February 2023.

APPEARANCE:

Mr. Anjan Bhattacharya, Advocate
Mr. Sunny Nandy, Advocate
Mr. Subha Pathak, Advocate
... for appellant/petitioner.

Mr. Debnath Ganguly, Advocate
Mr. Aranya Saho, Advocate
Mr. Supriyo Dutta, Advocate
Ms. Aishwarya Pratihari Ganguly, Advocate
... for respondent no.1.

Mr. Manoj Malhotra, Advocate
Mr. Sagnik Chatterjee, Advocate
... for State respondents.

The Court:- Affidavit of service filed by the appellant is taken on record.

This appeal has been filed along with GA/1/2022 seeking leave to appeal against the order of Learned Single Judge dated 15th September 2022 passed in WPO/2581/2022 whereby the Learned Single Judge has disposed of the writ petition by directing the concerned police station to provide necessary protection to the writ petitioner during the construction of the boundary wall.

Submission of learned counsel for the appellant is that the appellant is next door neighbour of the writ petitioner and by virtue of the order of

the Learned Single Judge, the writ petitioner has constructed a boundary wall on the common passage affecting the rights of the appellant.

The plea of learned counsel for the writ petitioner is that on the basis of the order of the Learned Single Judge, boundary wall has already been constructed and the said construction is protected by an order of injunction passed by the civil court.

Since the appellant has not been heard at the time of passing of the order under challenge and the facts which the appellant intends to place before this Court in appeal have not been placed at the first instance before the Learned Single Judge, therefore, we are of the opinion that the proper remedy available to the appellant is to seek review of the order of the Learned Single Judge. At this stage, a prayer has been made by counsel for the appellant seeking disposal of the GAs and appeal granting liberty to the appellant to apply for review.

Hence, the appeal and pending GAs are disposed of granting liberty to the appellant to approach the Writ Court seeking review of the order under challenge in this appeal.

[PRAKASH SHRIVASTAVA, C.J.]

[RAJARSHI BHARADWAJ, J.]