

Sl.No.

36

25.11.2024

Court

No. 35

G.S.Das

WPA 10610 of 2024

Mofijula Middya & Anr.

-Vs-

The State of West Bengal & Ors.

Mr. Dyutiman Banerjee

Mr. Md. Giassuddin

Mr. Vishal Mallick

.... For the petitioners

Mr. Ansar Mandal, Id. AGP

Mr. Asish Dutta

... for the State-respondents

The petitioners are aggrieved by the fact that they have been prevented by the private respondents from constructing their boundary wall over the suit property.

The petitioners approached the learned Sub-Divisional Executive Magistrate under Section 144(2) of the Cr.P.C. in the year 2023.

Learned advocate for the State has submitted a report. The petitioners intend to rely upon such report.

Be that as it may, the order under Section 144(2) of the Cr.P.C. has its validity in respect of any restraint order for a period of 60 days. The Section falls under a Chapter which relates to only the breach of peace and tranquility.

In spite of the same, if there has been any order passed, the same is against the spirit of the Section, as such, this Court is not bound to pass any order directing the police authorities to implement such order.

Learned advocate for the State submits a report, which reflects that a proceeding under Sections 107/116(C) of the Cr.P.C. has been drawn up by the concerned P.S.

Having considered the submissions advanced by the petitioners and the learned advocate for the State, I am of

the view that the petitioner, in case there is any dispute, would approach the jurisdictional Civil Court for construction of the boundary wall, if any.

So far as the other aspect is concerned, the police authorities are directed to keep a strict vigil and to ensure that no breach of the peace and tranquility takes place in view of the petitioners and the private respondents having a dispute over the suit property referred to in the writ petition.

With the aforesaid observations, WPA 10610 of 2024 is disposed of.

Report so submitted be kept with the record.

Affidavit of service so filed be kept with the record.

Parties to act on a server copy of this order duly collected from the

official website of the Hon'ble High Court,
Calcutta.

(Tirthankar Ghosh, J.)