

24.06.2024
Item No.12
gd/ssd

MAT/1549/2023
IA NO: CAN/1/2023, CAN/2/2023, CAN/3/2023
SHYAMAPADA MAJI
VS
R. B. FILLING STATION AND ORS.

Mr. Indranath Mitra
..for the Appellant.

Mr. Somnath Ganguli,
Ms. Priyamvada Singh
..for the State.

1. We have heard the learned advocate for the appellant and Mr. Somnath Ganguli, learned State advocate assisted by Ms. Priyamvada Singh, learned advocate for the official respondents.

2. The private respondent/writ petitioner has been served and affidavit of service has been filed, but none appears for the writ petitioner.

3. The appellant herein is a third party to the proceedings and sought for leave to file an appeal.

4. The learned Single Bench by the impugned order has directed police picket to be provided at the cost of the writ petitioner and also made an observation that the writ petitioner is entitled to construct a boundary wall.

5. The learned advocate for the appellant would strenuously contend that no proper demarcation

has been done by the revenue authorities and that there are several co-owners to the property and none of them were put on notice more particularly the appellant.

6. In the light of the above, the appellant is definitely an aggrieved person and, therefore, leave to file is granted.

7. CAN 3 of 2023 is allowed.

8. Since leave to file has been granted and the court is satisfied that the appellant was required to be heard in the matter, CAN 2 of 2023 is allowed and the delay in filing the appeal is condoned.

9. The writ petition was filed by the private respondent herein praying for a direction upon the Officer-in-Charge, Saltora Police Station, District – Bankura to take action on the complaint dated July 30, 2022 and conduct a fair investigation and remove all obstruction caused at the land comprised in Plot Nos.254 and 258, Khatian No.555 of Mouza – Kashipur, J.L. No.12, Police Station – Saltora, District – Bankura. The writ petitioner also prayed for deployment of adequate number of police personnel in the said property.

10. The writ petitioner claimed that he has converted the land in question for the purpose of running a petrol pump and the same has been

approved by the Sub-Divisional Land and Land Reforms Officer, Bankura, Sadar on 18.07.2019.

11. The dispute brought before the court by the private respondent is that some persons are obstructing the construction of boundary wall at the back side of the land. Further, it is stated in the writ petition that pursuant to a meeting on 29.07.2022 the Block Development Officer, Saltora Block and the Officer-in-Charge of the Police Station demarcated the back portion of the land by spotting bamboo stick.

12. Admittedly, the matter concerns right to an immovable property and the appellant claims to be a co-owner of the property.

13. In any event, the dispute being civil in nature it is appropriate that the police do not interfere in the matter unless there is a breach of law and order or any criminal offence is committed.

14. Therefore, the demarcation has to be done by the proper authority of the district administration.

15. Therefore, the appeal is allowed and the order passed in the writ petition is set aside and there will be a direction to the District Magistrate, Bankura to direct the concerned Block Development Officer to inspect the property after notice to all concerned i.e. the writ petitioner, the appellant, other co-owners of the property and also the neighbouring land owners and upon such inspection, if the boundary line can be

ascertained, the same should be fixed and thereafter the parties should be left to work out their rights in the manner known to law.

16. Further, we note from the written instruction given by the police that the writ petitioner has not remitted the cost directed to have been remitted and, therefore, no police picket has been granted.

17. However, strict vigil has been maintained in the area.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)