

01.10.2024
Item No.129
Ct. No.35
dc.

W.P.A. 20280 of 2024

**Mr. Prankrishna Chattopadhyay & Anr.
versus
The State of West Bengal & Ors.**

Mr. Sounak Bhattacharya,
Mr. Tapas Chatterjee ... For the Petitioners.

Mr. Vimal Kumar Shahi,
Ms. Sangeeta Roy ... For the State.

Mr. Jayanta Kumar Das,
Mr. Sadananda Karmakar,
Ms. Madhumanti Das ... For the Respondent Nos. 4 & 5.

Affidavit-of-service filed in Court today be kept with the record.

Report submitted by the learned advocate appearing for the State be also kept with the record.

There is a Title Suit being T.S. No. 121 of 2023 which is pending before the learned Civil Judge (Senior Division), 1st Additional Court, Burdwan. Records reflect that initially there was an ad interim injunction which was subsequently vacated pursuant to the present petitioner being the defendant filing an application under Order 39 Rule 4 of the Code of Civil Procedure. The said suit is in the nature of partition of the property and the petitioners have raised a construction. Dispute is amongst the relations while the petitioners claim that they would do plaster work and/or fix the doors and windows. On the other hand, learned advocate for the private respondent nos. 4 and 5

submits that there has been encroachment in respect of the property.

Be that as it may, this Court will not enter into the arena of encroachment as the civil court is already in seisin of the matter. So far as the plaster work and/or fixation of doors and windows are concerned, no permission is required from any authority until and unless the private respondent nos. 4 and 5 obtain an order from appropriate civil court. However, if there is any dispute between the petitioners and the private respondent nos. 4 and 5 which may lead to a tense atmosphere, the police authorities would exercise their powers for preventing any breach of peace and tranquility in the area.

With the aforesaid observations, the writ petition being WPA 20280 of 2024 is disposed of.

Pending connected application, if any, is consequently disposed of.

There shall be no order as to costs.

All concerned parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)