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23.09.2024
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WPA 20609 of 2024

Md. Hayatulla
Vs.
The State of West Bengal & Ors.

Mr. K. Mondal
... for the petitioner.

Mr. Sarwar Jahan
Md. A. Hoque
Ms. Tripti Sarkar
... for the respondent nos. 8 to 12

Md. Wasim Ahmed
Sk. Md. Masud
... for the State.

Report filed by the learned advocate for the
State be kept with the record.

Petitioner claims to be the recorded owners in
respect of plot no.438, J.L. No. 60, Mouza Barua, Khatian No.
11230 under Police Station Beldanga in the district of
Murshidabad.

The petitioner claims to be in possession of the
said property. The petitioner alleges that the private
respondents are creating obstruction in the matter of
construction of a boundary wall. The learned advocate for the
petitioner submits that construction of a boundary wall is
necessary for the purpose of protecting the property of the

petitioner.

Learned advocate for the private respondent submits that the Civil Suit is pending and the petitioner is trying to encroach upon property of the private respondent in the garb of construction of boundary wall.

The learned advocate for the private respondent disputes the fact that the petitioner is the owner of the aforesaid plot of land.

Learned advocate for the State submits that since the dispute is civil in nature this Court should not grant any relief in this writ petition.

After going through the materials on record, it is found that a title suit being T.S. No. 230 of 2024 is pending before the learned Civil Judge (Junior Division), 2nd Court, Berhampore.

Before allowing a private party to construct the boundary wall, the boundary line of the property in question is to be first ascertained. The police authority is not vested with the powers to decide the dispute with regard to the boundary line of an immovable property.

Since a civil suit is pending and the dispute between the private parties pertains to an immovable

property, this Court is not inclined to grant any relief to the petitioner in this writ petition. Petitioner is left free to approach the Civil Court where T.S. No. 230 of 2024 is pending for appropriate reliefs in accordance with law.

With the above observations and directions, the writ petition stands disposed of.

There shall, however, be no order as to costs.

(Hiranmay Bhattacharyya, J.)