

25.09.2024
Sl. No. 62
g.b.
Court No.07

W.P.A. 21751 of 2024

Marjina Bibi
-Vs-
The State of W. B. & Ors.

Mr. Nitai Ch. Saha
Mr. Abhijit Ch. Majumder
.....For the Petitioner
Mr. Suman Sengupta
Mr. Sambuddha Dutta
.....For the State

The petitioner alleges that the private respondents herein constructed two-storied building illegally by encroaching upon the three feet wide common passage, which exists between the property of the petitioner and the private respondents.

The petitioner filed a writ petition being WPA 7828 of 2023. A Co-ordinate Bench of this Court by an order dated July 31, 2023 disposed of the writ petition by directing the Corporation to conclude the proceeding initiated under Section 400, Kolkata Municipal Act, 1980 within the time limit stipulated in the said order.

The learned advocate for the petitioner submits that the private respondents are creating obstruction in the raising of boundary wall by the petitioner encircling her property. He submits that construction of boundary wall is necessary to protect the property of the petitioner.

The learned advocate for the State submits that the dispute is civil in nature and there is no inaction on the part of the police authorities.

In paragraph 8 of the writ petition the petitioner has admitted that there is a three feet wide common passage between the boundary line of the petitioner and the private respondents. Before the petitioner can be allowed to

construct the boundary wall encircling her property, the boundary line of the property of the petitioner is to be ascertained.

The police authority is not vested with the power to decide the boundary line of an immovable property.

If the petitioner faces any obstruction from the end of the adjoining owner with regard to construction of the boundary wall, the petitioner is left free to approach the proper forum for appropriate reliefs in accordance with law.

Since there is no inaction on the part of the police authority, this court is not inclined to grant any reliefs to the petitioner.

The writ petition stands disposed of with the aforesaid observations.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties after completion of all necessary formalities.

(Hiranmay Bhattacharyya, J.)