

Item No.22

07.02.2024
Ct-24

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 22405 of 2023
Arun Jana & Anr.

v.

The State of West Bengal & Ors.

Mr. Ejaz Hossain
Mr. Sk. Mustak Ali
... for the petitioners.

Mr. Subhas Jana
... for the private respondent nos. 9 & 10.

The petitioners complain that the private respondents raised construction over the land which is recorded as 'Path' in the record of rights. The petitioners and the private respondents are co-owners of a subject plot of land. The petitioners submit that without taking any sanction, the construction has been raised by the private respondents.

Learned advocate representing the private respondents submits, upon instruction that, the land where the construction has been made is the private land of the private respondents. Only boundary wall has been constructed over the private land of the private respondents.

It appears from the submissions made on behalf of the parties that there is a dispute with regard to the ownership of the land in question where the construction is alleged to be made.

The private respondents claim the land to be their private property and only boundary wall has been

constructed. According to the provision of law, construction of boundary wall upto a particular height does not require any permission from the Panchayat. Whether the pathway in question is a common one or not, cannot be adjudicated by the Pradhan of the Gram Panchayat.

There are several disputed questions of facts which neither the writ Court nor the Panchayat Authority can decide.

In view of the above, the petitioner is relegated to competent civil forum for redressal of his grievances.

No relief can be granted to the petitioner in the instant writ petition.

The writ petition fails and is hereby dismissed.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

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(Amrita Sinha, J.)