

02.09.2024

Ct No.6

as

25

MAT 1935 of 2023

**Raju Samanta
Vs.
The Tamluk Municipality & Ors.**

Mr. Sukumar Ghosh,
Ms. Moumita Ghosh.

...for the Appellant

1. Appellant is aggrieved by fencing which according to him was illegally constructed on his land.
2. Hon'ble Single Judge after considering the reports of the Municipality was of the view that the appellant/writ petitioner was at liberty to approach appropriate Court for necessary relief.
3. Learned Advocate for appellant submits private respondent had encroached on his land and made construction. Reports of the Municipality relied upon by the Hon'ble Single Judge referred to a bamboo fencing constructed by the private respondent. Nothing is placed on record to show temporary bamboo fencing requires prior permission.
4. Under such circumstances, no cause of action to knock the doors of the Court under Article 226 of the Constitution of India is made out. In the event temporary fencing interferes with the access or peaceful enjoyment

of property of the petitioner, it is open to him to agitate the same before the appropriate forum in accordance with law.

5. Accordingly, the appeal is dismissed.

6. There will be no order as to costs.

7. Photostat certified copy of this order, if applied for, be given to the appellant on compliance of all formalities.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)