

22
13.03.2024
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 28309 of 2023

**Bibhas Mondal
-versus
The State of West Bengal & Ors.**

**Mr. Prasad Bhattacharyya.
...For the Petitioner.**

**Mr. A.M. Firoz,
Mr. Arun Shaw,
Ms. Promila Halder.
...For the Respondent Nos. 3, 4 & 7.**

**Mr. Debabrata Chatterjee,
Mr. Simanta Kabir,
Mr. Avik Pramanik.
...For the Respondent Nos. 8 & 9.**

**Mr. Debnrarayan Banerjee,
Md. Ahasanuzzaman.
...For the State.**

The petitioner claims to be the owner of L.R. Dag No. 111 measuring about 17 decimals of land in Mouza-Andharmanik under the Baduria Municipality.

The petitioner is aggrieved by the act of the Baduria Municipality in demolishing the boundary wall that he is constructing. It has been submitted that the private respondents are instigating the men and agents of the councillor of the Baduria Municipality to do such illegal act.

The petitioner refers to a notice issued by the executive officer of the Baduria Municipality on 12th December, 2023 wherein a date was fixed for spot

inspection and measurement of the Dag No. 112, J.L. No. 43. The addressees of the notice were permitted to take assistance of their personal surveyors and Amins for the purpose of measurement of the said land.

The petitioner is aggrieved by the same.

It has been submitted that the petitioner is no way connected with Dag No. 112 and accordingly, the petitioner ought to be permitted to raise boundary wall for protection of his property over Dag No. 111.

Learned advocate appearing for the private respondent nos. 8 and 9 submits, upon instructions, that the notice dated 12th December, 2023 was issued to the private respondents also. It has been submitted by the parties that the measurement did take place on the scheduled date i.e. 18th December, 2023.

The report of the Municipality is however, not ready.

Learned advocate appearing for the Municipality submits, upon instructions, that there was a mass petition filed before the Municipality by the members of the locality alleging that the petitioner was trying to block the public pathway used by the people for time immemorial. The Municipality intends to resolve the dispute in between the parties.

Upon hearing the parties, it appears that there is an issue with regard to the identification and demarcation of the subject plot Dag No. 111. A title suit for partition is pending consideration before the Learned Civil Court being Title Suit No. 535 of 2023.

There is an order of status quo passed by the learned Court.

This Court is of the opinion that it will not be proper for directing the Municipality to identify or demarcate the plot of land. The parties ought to approach the civil court for relief.

If, however, the Municipality identifies the subject plot and the measurement which was taken by the Municipality on 18th December, 2023 reveal that the petitioner is not occupying any portion of Dag No. 112 and if there is no issue with regard to the title of the petitioner in connection with the Dag No. 111, then the Municipality may take a decision to permit the petitioner to construct the boundary wall.

The Municipality, if required, may take the assistance of the concerned Block Land and Land Reforms Officer for proper identification and measurement of the land in question. If there is any issue with regard to identification of the plot in question, the Municipality shall forthwith refer the parties to the civil court for relief.

Report filed by the Officer-in-Charge, Baduria Police Station dated 20th December, 2023 be retained with the record.

The writ petition stands disposed of.

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

(Amrita Sinha, J.)