

Sl.16
22.04.2025
Court No.6
BP

C.O. 1243 of 2025

Sri Nani Lal Saha & Anr.
-versus-
Sandip Das @ Pintu Das & Ors.

Mr. Partha Pratim Roy
Ms. Paulomi Chakraborty
..for the petitioners

This application under Article 227 of the Constitution of India is at the instance of the plaintiffs and is directed against an order being dated 17th March, 2025 passed by the learned Civil Judge (Junior Division), 1st Court at Serampore, Hooghly in Title Suit No. 210 of 2017.

By the order impugned the application under Section 151 of the Code of Civil Procedure praying for implementation of the order of injunction with police help stood rejected.

Mr. Roy, learned advocate appearing for the petitioners submits that the learned trial judge upon a contested hearing passed an order of injunction restraining the opposite parties herein from disturbing peaceful possession of the petitioners in respect of the suit property and from changing the nature and character of the suit property.

Mr. Roy, learned advocate appearing for the petitioners draws attention of the Court to the written intimation given by the petitioners to the Officer-in-Charge, Uttarpara Police Station vide letter dated 19th November, 2024 in support of his contention that the petitioners have lodged a complaint against the opposite parties intimating them that the opposite parties are creating disturbances in the peaceful possession of the property by the petitioners.

It appears from the record that the learned trial judge by an order dated January 8, 2018 passed an order of injunction upon a contested hearing restraining the opposite parties from disturbing the peaceful possession and usage of the plaintiffs of the suit property and from changing the nature and character of the same till the disposal of the suit.

Alleging violation of the said order of injunction the petitioners have filed an application under Section 151 of the Code of Civil Procedure. In paragraph 6 of the said application it has been stated that the plaintiffs are being alarmed and apprehended by the clandestine threats from the end of the opposite parties and in order to protect the property in question the petitioners want to raise the boundary wall around the suit property. It further appears that the petitioners have given a written intimation to the Officer-in-Charge, Uttarpara Police Station dated November 19, 2024 for giving necessary assistance to

complete the construction work of the boundary wall in and around the suit property.

Nothing has been produced before this Court to show that the petitioners were permitted by the Court to complete the incomplete boundary wall around the suit property. After going through the application under Section 151 of the Code of Civil Procedure this Court finds that the petitioners attempted to construct a boundary wall with police help. It appears that only the opposite parties are restrained by an order of injunction from disturbing the possession of the petitioners in respect of the property and from changing the nature and character of the suit property.

Mr. Roy, learned advocate appearing for the petitioners vehemently submits that for the purpose of construction of a boundary wall up to a height of three feet no permission is necessary from the local body. He further submits that since the opposite parties have been restrained from disturbing the peaceful possession of the petitioners in respect of the property the petitioner are entitled to raise construction of a boundary wall around the suit property.

Whether the petitioners are entitled to construct a boundary wall around the suit property or not is not the subject matter of issue in the civil revisional application. Right to construct a boundary wall around the property by the petitioners has not yet been established. The learned

trial Judge was right in rejecting the application praying for police assistance as the application contained only vague allegation.

For such reason, this Court is not inclined to interfere with the order impugned. Accordingly, C.O. 1243 of 2025 stands disposed of.

No order as to costs.

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

(Hiranmay Bhattacharyya, J.)