

11.11.2025
Ct. 3
Item No.
AD 2
Saswata

WPA 10911 of 2024
Pranab Kumar Ganguly
Versus
The State of West Bengal & Ors.

Mr. Shibaji Kumar Das
Mr. Dipendu Sarkar
Ms. Deblina De

... For the petitioner

Mr. Ayan Banerjee
Ms. Debasree Dhamali
Ms. Riya Ghosh
Ms. Debolina Ghosh

... For the Bally Municipality

Mr. Apurba Kumar Ghosh

...For the respondent nos. 7 & 8

1. Report filed by the Administrator, Bally Municipality in Court today is retained with the record.
2. The present writ petition has been filed, inter alia, praying for a direction upon the Municipal authorities particularly the Administrator, Bally Municipality being the respondent no. 3 to forthwith take steps and demolish illegal and unauthorized construction of garage without any sanctioned plan in premises no. 10/1, Chakraborty Para Lane, Post Office & Police Station-Bally District-Howrah in terms of the demolition order dated 4th May 2023.
3. Records would reveal that Ashim Kumar Ganguly, who also happens to be the father of the petitioner had entered into an amicable partition for partitioning premises no. 10 Chakraborty Para Lane, Bally, Howrah in RS khatian number 16731 Holding no. 1110 J.L. no. 14, Mouza Bally (hereinafter

referred to as the said property) with the other co-owners of the said property.

4. From the aforesaid deed of partition and the partition plan, which has been annexed to the writ petition it would transpire that while the petitioner's predecessor in interest was allotted plot A, the predecessor in interest of the private respondent Rabindranath Ganguly, Smt. Papiya Ghosh and Bulbul Mukherjee were allotted Plot B portion.
5. Mr. Das learned advocate appearing for the petitioner has been candid enough to enlighten this Court that the private respondent had purchased the interest of Rabindranath Ganguly. I find from the partition plan that plots have been clearly demarcated and I find from the partition deed that the parties have been given authority to construct a partition wall.
6. Learned advocate appearing for the private respondent submits that the partition wall had, in fact been constructed on the demarcated line separating the Plot A and B, which the petitioner would contend does not have the sanction of law since the Municipal authorities have not granted any sanction for the same. According to the petitioner, the private respondents had attempted to cover the said open space up to the aforesaid partition wall and had attempted to convert the same to a garage.
7. Records reveal that although, on the basis of the order of demolition, the private respondents have since removed the covering and according to the Municipal authorities, the order of demolition has been carried

out, Mr. Das would however, submit that the partition wall constructed by the private respondents, which does not have the sanction of law, should also be demolished.

8. Having heard the learned advocates for the parties and upon considering the materials on record, I find that the petitioner as co-owner having agreed to by the partition and having authorized the predecessor in title of the private respondent to construct the partition wall, is estopped from challenging the authority of the private respondent to construct the wall. Ordinarily a boundary wall upto 6.5 ft is permissible since the same is less than 2 meters in height. As to whether the boundary wall has encroached upon the partition wall, would require an adjudication. The Municipal authority has already filed a report and has stated that taking action against demarcation of the private property is beyond their competence.
9. I find no irregularity in this regard. In any event, having regard to the partition plan there is no scope for the petitioner at least to object to the construction of the partition wall. The partition wall, in my view, only permits the parties to obviously enjoy the respective allotments without interfering with the rights of the others.
10. With the above observation, the writ petition is disposed of.

11. All parties shall act on the basis of the server copy of this order duly downloaded from this Court's official website.

(Raja Basu Chowdhury, J.)