

**03-06-
2025**
Item No.4
Subrata

Bhattacharyy
a
AR(C)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.11511 of 2025
Mofazzal Haque

-vs-

The State of West Bengal & Ors.

Mr. Kamalesh Chandra Sahaq
Mr. Arka Mukherjee ...for the petitioner

Mr. Swapan Banerjee
Mr. Biplab Guha
Ms. Paramita Pal
Mr. Nikhil Gupta ...for the State

Mr. Ashok Bhowmick
Mr. Sourav Sengupta ...for the respondent no.2

Mr. Binoy Shaw
Mr. Sujan Das ...for respondents no. 5-8

The present writ petition has been filed primarily seeking to restrain the private respondent from causing any disturbance to the petitioner in the construction of a boundary wall surrounding the property in question.

Mr. Sahaq, learned advocate representing the petitioner, submits that the private respondent, without any lawful authority, has been obstructing the petitioner in the peaceful possession and enjoyment of the property. As a result of this interference, the petitioner approached the Sub-Divisional Officer concerned with an application under Section 163 of the BNSS Act. Additionally, a civil suit has been instituted against the private respondent, wherein an interim order was passed restraining the private respondent from causing any

disturbance to the petitioner's peaceful possession of the suit property until June 11, 2025. Due to the ongoing summer vacation, the petitioner intends to construct a boundary wall; however, owing to the private respondent's continued disturbances, the petitioner has been compelled to file the present writ petition.

Mr. Shaw, learned advocate appearing for the private respondent nos. 5 to 8, submits that two civil suits concerning the property are currently pending before the competent civil court of law.

The State is unrepresented. The petitioner is also unable to show that a copy of the writ petition has been served upon the office of the Government Pleader.

I find Mr. Swapan Banerjee, learned Additional Government Pleader who is present in court. He is requested by this court to appear in this matter. Let his appearance may be regularized.

Heard the learned advocates appearing for the respective parties and peruse the materials on record.

Admittedly, two civil suits concerning the property are currently pending, wherein the petitioner himself claims to be the owner and in possession of the property. The civil court has already applied its mind to the dispute. At this stage, this writ court should refrain from passing any interim order that would permit the petitioner to alter the nature or character of the suit property during the pendency of the civil suits, without obtaining prior permission from the civil court, which is seized

of the matter. If the injunction order passed by the civil court is violated by the private respondent, the petitioner has an adequate remedy available under the Code of Civil Procedure.

Therefore, taking note of the aforesaid facts, I am of the view that no interference is warranted in this writ petition. Accordingly, the writ petition is dismissed, without any order as to costs

The State is directed to ensure that no breach of peace takes place in the locality till June 10, 2025.

All parties are to act on the server copy of this order duly downloaded from the official website of this court.

Certified copy of this order, if applied for, shall be made available to the parties.

[Partha Sarathi Chatterjee, J]

