

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

HEARD ON: 03.03.2025

DELIVERED ON: 03.03.2025

**CORAM:
THE HON'BLE MR. CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)**

M.A.T. 1058 of 2023

With

IA No. CAN 1 of 2023

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CAN 2 of 2023

**Ansar Ali Molla @ Md. Ansar Ali Sekh
Vs.**

The State of West Bengal & Ors.

Appearance:-

**Mr. Anindya Bose
Mr. Santanu Maji
Mr. Mridul Biswas**

.....For the Appellant

Mr. Avirup Chatterjee

.....For the Respondent no.8/writ petitioner

JUDGMENT

(Judgment of the Court was delivered by T.S. SIVAGNANAM, C.J.)

1. This intra-Court appeal filed by the private respondent in W.P.A. 11246 of 2023 is directed against the order dated 16th May, 2023. The respondent in the present appeal filed the writ petition seeking police aid so as to enable him to construct a boundary wall.
2. The learned Writ Court took note of the submission made by the learned counsel for the State that both the parties were called to the police station. However, the notice served on the appellant/private respondent in the writ petition returned with the endorsement "addressee not known".

3. In such circumstances, the writ petitioner was permitted to construct a boundary wall in his premises within a time frame. The appellant/private respondent in the writ petition was permitted to assert his right by moving the appropriate civil court.
4. The Writ Court exercising jurisdiction under Article 226 of the Constitution of India will not examine the title of a person to an immovable property. Furthermore, it will be very risky to allow the police authorities to earmark the boundaries or decide as to who is the owner of a particular extent of land.
5. The appellant has filed CAN 2 of 2023 contending that during the pendency of this appeal, the respondent/writ petitioner had constructed the boundary wall. This allegation is denied by the learned advocate appearing for the respondent/writ petitioner stating that the boundary wall was in existence much prior and the wall was within the property owned by the private respondent/writ petitioner.
6. In any event, the police can enquire into the issue as to whether any cognizable offence has been committed or an act of trespass has been committed. To that extent, the police will have jurisdiction. Since, the appellant did not appear before the police authorities, we deem it appropriate to give one more opportunity to the appellant to do so making it clear that the police cannot decide the question of title over a property, but they can examine the limited issue as to whether there is any trespass committed or whether the right of ingress and egress of the appellant is affected on account of the boundary wall said to have been constructed by the respondent/writ petitioner.
7. Accordingly, appeal and the connected applications are disposed of by directing the 2nd respondent/police to issue notice to the appellant as well as the 7th and 8th

respondents and also request the 4th respondent to depute one of his officers with the concerned land records and in their presence, inquire into the matter and if any cognizable offence is made out, then proceed to take action in accordance with law.

8. The above direction be complied with within a period of three weeks from the date of receipt of server copy of this order.
9. Needless to state that if there is any dispute with regard to the title either of the parties are at liberty to assert their rights before the appropriate civil court.
10. Needless to state, in the event, the parties approach before the civil court, the civil court will decide the matter independently based on the oral and documentary evidence placed before it uninfluenced by any observation made by this Court or by the learned Writ Court or in the police report.
11. No costs.
12. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

I agree.

(CHAITALI CHATTERJEE (DAS) J.)

Pallab/KS AR(Ct.)