

Sl.No.

5

13.08.2025

Court
No. 35

G.S.Das

WPA 17215 of 2025

Paritosh Gayen

-Vs-

The State of West Bengal & Ors.

Mr. Debabrata Roy
Mr. G. F. Hossain
Mr. R. H. Khan

... for the Petitioner(s)

Mr. Dipanjan Datta
Mr. Sambuddha Dutta

... for the State – Respondent(s)

Ms. Kajal Chattopadhyay

... for the private respondent no.7

The petitioner is aggrieved by the fact that inspite of the directions passed by the learned Civil Judge (Sr. Divn.), 2nd Court, Baruipur in TS 280 of 2020 to maintain *status quo* in respect of nature, character and respective physical possession of the property, the private respondents by suppressing such fact approached the learned Executive Magistrate and obtained an order and with the aid of the police authorities constructed a boundary wall.

However, according to the learned advocate, immediately within two days, the said proceeding before the learned Magistrate was dropped.

According to Mr. Roy, learned advocate for the petitioner, the order of the learned Executive Magistrate on the face of it is without any foundation. According to the petitioner, the said order was misinterpreted and the police authorities aided the respondents for construction of such boundary wall.

State has submitted a report which reflects that a long standing land dispute is existing between the petitioner and the private respondent(s). It is categorically stated that the respondent no.7/Chandan Sarkar obtained an order from the learned Executive Magistrate, Baruipur in MP Case No. 2053 of 2025 and carried out the construction of boundary wall in his landed property. Although, the report states that the land

of the petitioner is empty under the possession of the petitioner and no construction work has been done by the private respondents at the said landed property.

Be that as it may, learned advocate for the petitioner disputes the same and submits that the order of the learned Executive Magistrate was without any jurisdiction and the police authorities aided the respondents in construction of the boundary wall. The police report is not to the satisfaction of this Court, as although it has been referred to in the first paragraph of TS 280 of 2020 restraining changes in nature, character and possession of the said landed property but construction of boundary wall was allowed pursuant to the order passed by the learned Executive Magistrate.

If the police authorities give precedence to the orders passed by the learned Executive Magistrate then the

jurisdiction of the learned Civil Court accorded under the relevant provisions of Civil Procedure Code for deciding right, title and interest of citizens would be diluted and jeopardized.

Having regard to the steps taken by the police authorities as contended in the report, I find that the police authorities have used as a shield, the order passed by the learned Executive Magistrate to justify their conduct, as such, this Court is not in a position to hold that there has been police excesses.

However, if the petitioner approaches the concerned civil court and/or the jurisdictional court having determination to revisit the order of the civil court or its consequential actions, it would be for the said court to assess regarding the order passed by the civil court and the subsequent actions of the police authorities using the order under

Section 144(2) of the Cr.P.C. as a shield.

With the aforesaid observations,
WPA 17215 of 2025 is disposed of.

Pending application(s), if any, is
also disposed of.

Report so submitted be kept with
the record. A copy of the report be
handed over to the petitioner.

Parties to act on a server copy of this
order duly collected from the official website of the
Hon'ble High Court, Calcutta.

(Tirthankar Ghosh, J.)

