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jdt. 10.11.2025
jb.

WPA 23213 of 2025
(Nurabul Sk. & Anr. vs. State of West Bengal & Ors.)

Mr. Mrinal Kanti Ghosh
Ms. Bipasha Bhattacharyya
.... For the Petitioners
Mr. L. M. Mahata
Mr. P. B. Mahata
.... For the State

Affidavit of service filed by the petitioners and report submitted by the State are taken on record.

Heard learned counsels for the parties.

It is not in dispute that the petitioners and the private respondents are co-sharers in respect of the plot in question and a partition suit is pending between them wherein preliminary decree has been drawn up. Pursuant to the preliminary decree, the report of the advocate commissioner has been submitted before learned trial Court. Final decree on the basis of such report is yet to be drawn up. The petitioners allege that the private respondents have encroached upon the common passage of the parties thereby obstructing their egress and ingress.

Per contra, learned counsel for the private respondents submits that the passage spoken about belongs to the private respondents exclusively and the petitioners have been using a different passage all throughout. The petitioners are trying to create equity over the passage exclusively owned by the private respondents in the garb of the present writ petition.

The disputed passage is a part and parcel of the property involved in the partition suit and final decree is yet to be drawn up. Whether the said passage is a joint passage or exclusively belongs to any of the parties shall be decided by the learned trial Court in drawing up the final decree for the parties.

In the meantime, the police authority is directed to keep strict vigil over the area in order to ensure peace and tranquility.

No fruitful purpose shall be served by keeping the writ petition pending and the same is accordingly disposed of.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)