

03.04.2025

Item No.21

Ct. No.35

dc.

W.P.A. 26362 of 2024

**Apurba Kumar Roy
versus
The State of West Bengal & Ors.**

Mr. Chandrachur Chatterjee,
Ms. Rubab Fatma ... For the Petitioner.

Mr. Rajarshi Basu,
Mr. Ananda Dulal Sarkar ... For the State.

Mr. Shankar Prasad Dalapati,
Mr. Safik Dewan,
Mr. Pratap Kumar Yadav,
Mr. Amalendu Bikash Dutta ... For the Respondent No.6.

Affidavit-of-service filed in Court today be
kept with the record.

Report submitted by the learned advocate
appearing for the State be also kept with the record.
A copy of the report be handed over to the learned
advocates appearing for the petitioner and the
respondent no.6.

The petitioner is aggrieved by the fact that in
spite of the order dated 02.08.2024 passed by
learned Civil Judge (Jr. Division), 2nd Court,
Baruipur in Title Suit No. 216 of 2024, police
authorities did not take any step and as such, the
petitioner was compelled to inform the Inspector-in-
Charge, Sonarpur Police Station regarding the
violation of the order. The grievance of the
petitioner is in respect of the new construction in
the suit property.

Be that as it may, I have considered the
police report dated 05.12.2024 which has been

submitted before this Court. Police authorities on receipt of information registered Sonarpur P.S. Case No.833/2024 dated 23.06.2024. On completion of investigation, charge-sheet has already been submitted before the jurisdictional court. However, there is an observation in the report that the respondent no.6 by violating the order of injunction constructed a boundary wall by demolishing the old boundary wall which was existing around the said property. In view of the observations made in the report and a police case having been registered, *prima facie* I find that there is substance in the accusations made by the writ petitioner.

In view of the fact that a criminal case has been registered, the only remedy now available to the petitioner is to approach the civil court informing the violation which has already been committed in view of the status quo order dated 15.03.2024 and the subsequent order dated 02.08.2024 directing the Inspector-in-Charge, Sonarpur Police Station. In case the construction is unauthorised, the civil court will pass necessary directions. The petitioner would also exhaust remedies under the Code of Civil Procedure in respect of violation of the order passed by the civil court by a party to the civil suit having complete knowledge regarding the order.

Learned advocate appearing for the private respondent no.6 submits that the writ petition is not maintainable.

However, having considered that the police report reflects that the petitioner has allegedly committed an offence, I am of the view that the civil court will definitely pass necessary directions in consonance with the observations made above, if required, civil court will call for a fresh report.

With the aforesaid observations, the writ petition being WPA 26362 of 2024 is disposed of.

There will be no order as to costs.

All concerned parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)