

17 **27.03.
2025**

Ct. No. 28

Ab

WPA 27562 of 2024

Saroj Agarwala

Vs.

The State of West Bengal and others.

Mr. Atis Kumar Biswas,

Mr. Amit Singh,

Mrs. Jyoti Agarwal.

... for the writ petitioner.

Ms. Noelle Banerjee,

Mr. Ratul Das.

... for the State.

The affidavit of service filed in Court today is taken on record.

Despite service there is no appearance on behalf of the respondent nos. 11 to 14. The State respondents are represented.

The writ petitioner is aggrieved by non-implementation of the order dated August 9, 2023 passed by the learned Sub-Divisional Executive Magistrate in connection with Criminal Case No. 88 of 2023 initiated under Section 147 of the Code of Criminal Procedure.

It has been submitted by the learned Advocate for the writ petitioner that the private respondents have raised a wall on a Government land thereby impeding the petitioner's access to her plot of land. The writ petitioner further submits that a proceeding initiated under Section 147 of the Code of Criminal Procedure before the learned Sub-Divisional Executive Magistrate by the petitioner resulted in an order dated August 9, 2023 being passed whereby the Officer in-Charge, Palashipara Police Station was directed to ensure that the ingress and egress of the petitioner to and from her land was not hampered. The petitioner also submits that due to such construction of wall, the petitioner is facing grave inconvenience and the petitioner, therefore, seeks

a direction upon the State Authorities to act in accordance with the order passed by the learned Sub-Divisional Executive Magistrate and remove the obstructing boundary wall.

Ms. Noelle Banerjee, learned Advocate appearing on behalf of the State, submits that the steps have duly been taken by the respondents towards implementation of the order dated August 9, 2023 passed by the learned Sub-Divisional Executive Magistrate and in support thereof she hands up a copy of inquiry report dated November 27, 2024 prepared by the Inspector of Police in-Charge, Palashipara Police Station. The said inquiry report reveals that upon inquiry conducted by the Officer of the relevant Police Station, a prosecution has been launched against three persons named in the report. The said inquiry report also refers to a report of BL&LRO, Tehatta II and states that from the said report of BL&LRO, Tehatta-II, it is difficult to understand as to who is the actual owner of the plot where the wall has been erected. The report further reveals that the police authorities are unable to take steps for removal or demolition of the wall inasmuch as there is no specific direction upon the police from the competent authority for removal and demolition of the said wall. The report is taken on record.

Having regard to the submissions of the parties and upon having perused the material on record, this Court is of the view that justice would be sub-served if the writ petitioner is given liberty to approach the concerned authorities including the relevant Sub-Divisional Executive Magistrate by way of an appropriate proceeding/application seeking removal of the aforesaid wall, which is causing hindrance in the petitioner's access to the petitioner's land in question.

It is needless to mention that if any such proceeding is initiated or application is made by the writ

petitioner, the authority concerned shall deal with the same expeditiously and in accordance with law.

The writ petition being WPA 27562 of 2024 stands disposed of with the aforesaid observations.

There shall, however, be no order as to costs.

(Om Narayan Rai, J.)