

28.02.2023.
Court No.13
Item No. 25
ap

W.P.A. No. 28957 of 2022
Syed Salehin Aksar
Versus
The State of West Bengal & Ors.

Mr. Sunny Nandy,
Mr. Tamal Singha Roy,
Mr. Subha Pathak.

...For the petitioner.

Mr. Saidur Rahaman.

...For the Respondent no.4.

Affidavit-of-service filed in Court today be taken on record.

The petitioner complains that the private respondent is obstructing him from effecting construction over the boundary wall on his premises.

The private respondent does not dispute the petitioner's title to the property. He, however, submits that there was a pathway through the land of the petitioner to access a public road recognized by the predecessor-in-interest of both the petitioner and the private respondent.

This Court is of the view that the private respondent should have asserted civil rights in respect of the pathway, which has not been done till date.

The petitioner shall be entitled to construct his boundary wall on and from 1st April, 2023 and Kashipur Police Station shall render assistance in that regard to him.

However, both the parties and Kashipur Police Station shall be bound by any order from the Civil Court that may be passed in respect construction of the boundary wall and recognizing any pathway in favour of the private respondent.

The report of the Kashipur Police Station dated 27th February, 2023 in the form of instructions addressed to the State Advocate is taken on record.

With the aforesaid directions, the instant writ petition shall stand disposed of.

There will be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)