

27.08.2026
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MAT 1228 of 2026
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IA No.: CAN 1 of 2026 [Stay]
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IA No.: CAN 2 of 2026 [Sec. 5]
Moktarul Islam & Others
- Versus -
The State of West Bengal & Others

Mr. Debashis Banerjee,
Mr. Vijay Verma,
Mr. Subrata Saha,
Mr. Rakesh Jana,
Mr. Vikas Kumar

... for the Appellants.

Mr. Rajdeep Majumder,
Mr. Prasanta Naskar,
Mr. Srijit Halder

... for the State/Respondents.

Mr. Anirban Mitra,
Mr. Amit Halder,
Mr. Amit Roy

... for the Respondent no.5/
Writ Petitioner.

IA No.: CAN 2 of 2026 [Sec. 5]

Upon hearing the learned advocates appearing for the respective parties and considering the materials on record, we are satisfied with the explanation given towards the delay in preferring the appeal. Accordingly, such delay is condoned and the application for condonation of delay, being IA No.: CAN 2 of 2026 is disposed of.

MAT 1228 of 2026
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IA No.: CAN 1 of 2026 [Stay]

The present appeal has been preferred challenging an order dated 24th February, 2026 passed by the

learned single Judge in the writ petition, being WPA 27014 of 2025. The appellants herein were the private respondents in the said writ petition. By the order impugned, the learned single Judge disposed of the writ petition taking note of the fact that a Suit, being O.C. No.29 of 2018 preferred by the respondent no.6 herein against his son, being the private respondent no.5 herein had been dismissed by the competent civil Court by an order dated 19th September, 2025.

Mr. Banerjee, learned advocate appearing for the appellants submits that the learned single Judge while passing the order impugned did not take into consideration an earlier order passed by a co-ordinate Bench of this Court in an appeal being MAT 1249 of 2021 setting aside the directions passed by the learned single Judge in respect of taking suitable steps under Section 211 of the IPC in a writ petition, being WP 3371 of 2021 preferred by the writ petitioner/respondent no.5 herein against the private respondents as well as the State authorities, as the dispute was purely civil in nature.

He further contends that the appellants are possessing dag/plot nos. 247, 248, 257 and 259 in Khatian no.79, as would be explicit from the record of rights. Such possession has been sought to be disturbed by the respondent no.5. The dispute is thus purely civil in nature and in the said conspectus, the learned single Judge ought not to have passed a

specific direction upon the police authority to render necessary assistance/protection to the writ petitioner in order to enable him to possess the property in question peacefully without any disturbance whatsoever by the private respondents therein.

Mr. Mitra, learned advocate appearing for the private respondent no.5, however, denies and disputes such contention of Mr. Banerjee and submits that there is no dispute as regards the ownership of respondent no.5 in respect of a plot of land measuring 0.37 acre under Khaitan No.1078 flows from the Khatian No.173 under plot nos. 248 and 259.

In view of such admitted possession, the learned single Judge rightly exercised discretion in favour of the writ petitioner/ respondent no.5 herein and there is no infirmity in the order impugned.

Placing reliance upon the report submitted by the Inspector-in-charge, Banshihari Police Station, Mr. Naskar, learned advocate appearing for the State authorities submits that pursuant to the order of the learned single Judge an enquiry was conducted. However, no forceful, intimidating or illegal steps have been taken against anyone.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

A writ for police protection so-called, has only a limited scope, as, when the Court is approached for

protection of rights declared by a decree or by an order passed by a civil Court. It cannot be extended to cases where rights have not been determined finally by the civil Court.

Indisputably, there is a dispute amongst the parties as regards possession of the land in khatian no.1078 and khatian no.79. In the appeal being MAT 1249 of 2021 preferred earlier by the respondent no.5, the Court did not pass any specific direction upon the State authorities to provide necessary assistance to any of the parties. In view thereof, the learned single Judge ought not to have directed the police authorities to interfere in a matter involving civil dispute and to render protection to the respondent no.5 herein in order to enable him to possess the property in question. Accordingly, such direction is set aside.

However, it is made clear that the police authorities shall ensure that no breach of peace takes place and no physical harm is caused to either set of parties as a result of the dispute between them.

The order impugned is modified to the above extent and the appeal along with the connected application is disposed of.

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

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

(Atarup Banerjee, J.)

(Tapabrata Chakraborty, A.C.J.)