

7 **14.10.
2024**

Ct. No. 07

AMR

WPA 11127 of 2024

Prasenjit Guria & Anr.

Vs.

The State of West Bengal & Ors.

Mr. Tapas Kumar Dey

... for the petitioner.

Mr. Biplab Guha,

Mr. Bikas Mondal

... for the respondent No.6 to 8

Mr. Swapan Banerjee

... for the AGP.

Mr. Manoj Kumar Mondal

... for the State

1. Affidavit of Service as filed today is taken on record.
2. By filing the instant writ petition, the writ petitioner alleges that the property in question, which belongs to the writ petitioner, is going to be grabbed by the private respondent nos. 7 to 9 with the aid and assistance of the respondent no. 6 for the purpose of construction of a Toto Stand.
3. It is submitted that apprehending dispossession from the property in question being Title Suit No. 193 of 2023 was filed before the jurisdictional civil court wherein an ad-interim order of injunction was passed which was directed to be continued till disposal of the said suit after a contested hearing.
4. It is contended on behalf of the writ petitioner that despite of issuance of temporary injunction till disposal of the suit, the private respondents with the aid and assistance of the respondent no. 6, the Chairman, Nabadwip Municipality are making an

attempt to dispossess the writ petitioner by violating the injunction order.

5. Per contra, learned Advocate for the respondent no. 6 submits before this Court that since the writ petitioner has already approached the common law forum and since adequate relief is available to him from the said common law forum, no relief should be granted to him basically on the principle of availability of the alternative remedy.
6. It is further submitted on behalf of the respondent no. 6, the Chairman, Nabadwip Municipality that the land in question is a vested land over which the writ petitioner has got no right, title and interest.
7. In course of hearing, learned Additional Government Pleader, at the very outset, draws attention of this Court to the report dated 18.05.2024 as submitted by the Inspector of Police, Nabadwip P.S. which is taken on record today.
8. On perusal of such report, it also reveals that the dispute between the writ petitioner and the respondent nos. 6 to 9 is with regard to the title and possession of the land.
9. It further reveals to this Court that apprehending dispossession and claiming title over the property, the writ petitioner has already initiated a title suit which is pending before the learned trial Court. Such being the position and also considering the fact that this Court being a writ court while exercising its writ jurisdiction cannot go into the right, title and interest of the writ petitioner and also considering the fact that the writ petitioner has already approached the civil court for its appropriate relief, the instant writ petition has practically become infructuous.
10. However, before parting with the respondent no. 5

i.e., The Inspector-in-Charge, Nabadwip Police Station is hereby directed to ensure that the orders as passed by the learned Civil Judge (Jr. Divn.), Nabadwip, Nadia in connection with Title Suit No. 193 of 2023 is obeyed in letter and spirit.

11. With the above observations, the instant writ petition being **WPA 11127 of 2024** is hereby disposed of.
12. Liberty is given to the writ petitioner to communicate the server copy of this order to the respondent no. 5.
13. Respondent no. 5 is hereby directed to act on the server copy of this order.
14. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)