

01.02.2024
Court No. 1
S/L. No. 102
Sourav

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI**

**MAT 48 of 2023
With
CAN 1 of 2023
With
CAN 2 of 2023**

**Ratan Kumar Saha
Vs.
The State of West Bengal & Ors.**

*Mr. Arnab Sengupta
Mr. Deborshi Dhar*

...for the appellant.

*Mr. Subir Kumar Saha
Mr. Momenur Rahaman
Mr. Bikash Singha*

... for the State.

*Mr. Bikramaditya Ghosh
Ms. Supriya Singh*

... for the private respondents.

In Re: CAN 2 of 2023

1. Heard learned Counsel for the parties.
2. There is delay of two days in filing this appeal.
3. Having heard the learned Counsel for the parties, the delay is condoned with their consent.
4. Accordingly, the interim application being **CAN 2 of 2023** is disposed of.

In Re: MAT 48 of 2023

1. Heard learned Counsel for the parties.
2. The question in this appeal is zeroed down to the point as to whether in a civil dispute, the writ court has required authority and

mechanism to go into pure question of civil dispute only on the basis of documents relied on in the writ petition and affidavit-in-opposition.

3. The answer to this question as rightly appreciated fairly by learned Counsel for the parties is 'no'. The question of right, title and ownership depends on many factual considerations and it cannot be decided on the basis of revenue records. Similarly, taking a cue from the order of this Court, no party should act to the prejudice of its adversary.
4. In view of such fact, we set aside the impugned order and direct the parties whoever feels injured to approach the common law forum in the civil side by filing appropriate proceeding. The order passed by this Court shall not be any way create right in any of the party or impose liability on any of the party. The parties are free to choose their forum and relief.
5. With the aforesaid observations, the appeal being **MAT 48 of 2023** along with all interim application is disposed of.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)