

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:
The Hon'ble Justice Debangsu Basak
And
The Hon'ble Justice Md. Shabbar Rashidi

**F.M.A. 519 of 2025
With
CAN 1 of 2025**

**Ajit Kumar Modak
Vs.
State of West Bengal & Ors.**

For the Appellant : Mr. Anil Kumar Chattopadhyay

For the Respondent No. 6 : Mr. Ujjal Ray,
Mr. Abdur Rahim
Ms. Manishikha Mandal

For the State : Ms. Jhuma Chakraborty
Ms. Munmun Tewary

Heard & Judgment on : **July 23, 2025**

DEBANGSU BASAK, J.:-

1. Appeal is directed against an order dated January 30, 2025 passed in W.P.A. 29261 of 2024.
2. By the impugned order, learned Single Judge noted title disputes between the private parties. Learned Single Judge also noted that the issue in the writ petition was with regard to the erection of a boundary wall. Learned Single Judge, therefore, observed that the parties should settle their disputes before the Civil Court.

3. State and the private parties are represented.
4. It is submitted on behalf of the private respondents that a civil suit was filed by the appellant and that prayer for injunction was refused. It is contended that the appellant filed a civil suit being Title Suit No. 129 of 2016 before the learned Civil Judge, Jr. Division, 2nd Court, Hooghly. By Order No. 2, dated March 30, 2016, prayer of the plaintiff in such civil suit was refused. Appellant before us is the plaintiff in T.S. No. 129 of 2016. Reliance is placed on the plaint of such civil suit as also orders passed therein.
5. We perused the plaint of such title suit. Appellant/writ petitioner is the plaintiff of such title suit as noted above. Plaintiff sought a decree for declaration in respect of the suit property along with a decree for injunction restraining the private respondents from disturbing the appellant/writ petitioner in the suit property. Schedule described in the plaint relates to the property involved in the present writ petition.
6. Such Title Suit No. 129 of 2016 was dismissed for default on February 26, 2019. Thereafter, the appellant/writ petitioner approached this Writ Court suppressing the factum of filing of such suit and tried to obtain interim protection from the Writ Court.
7. Appellant/writ petitioner therefore approached the Writ Court with unclean hands. He suppressed the material fact as to the filing of a civil suit by him before the learned Civil Court and the failure of the appellant to obtain any interim protection in such civil suit as also the fact that such civil suit stood dismissed for default.

8. Apparently, the appellant did not inform the learned advocate for the appellant with regard to the civil suit also, as claimed by the learned advocate for the appellant.
9. Such Title Suit No. 129 of 2016 was dismissed for default on February 26, 2019. Thereafter, the appellant/writ petitioner approached this Writ Court suppressing the factum of filing of such suit and tried to obtain interim protection from the Writ Court.
10. In such circumstances, such conduct of the appellant/writ petitioner should not only be accepted by the Court, but the appellant should be put on terms. Appellant deliberately chose to mislead the Court by suppressing vital and material facts well known to him. After his civil suit got dismissed for default he filed the writ petition to obtain an order which he failed to obtain through his civil suit.
11. In such circumstances, the appellant shall pay costs assessed at Rs.1 lakh to the West Bengal Legal Services Authority within seven days from date. In the event, documentary evidence of payment of such costs is not deposited with the District Magistrate, Hooghly within whose jurisdiction the appellant resides, District Magistrate, Hooghly will initiate appropriate proceeding for recovery of such costs as arrears of land revenue.
12. **F.M.A. 519 of 2025** and the connected application being **CAN 1 of 2025** are **disposed of**.

(Debangsu Basak, J.)

13. I agree.

(Md. Shabbar Rashidi J.)