

21.04.2025
Item No.26
Ct. No.35
dc.

W.P.A. 7378 of 2025

**Magnath Bera
versus
The State of West Bengal & Ors.**

Mr. Pawan Kumar Gupta,
Mr. Sharadindu Patra,
Ms. Sofia Nesar,
Mr. Santanu Sett ... For the Petitioner.

Mr. Lalit Mohan Mahata, AGP,
Mr. Prasanta Behari Mahata ... For the State.

Mr. Mrityunjoy Chatterjee,
Mr. Akash Sarkar ... For the Respondent No.6.

Affidavit-of-service filed in Court today be kept with the record.

Report submitted by the learned advocate appearing for the State be also kept with the record.

The petitioner earlier approached this Court as there was garbage being thrown at the common passage which was deterring the free egress and ingress of the petitioner. The petitioner claims that pursuant to the earlier direction steps were taken, but again the private respondent has started repeating the same illegal acts of throwing garbage.

Records reflect that a civil suit is pending being T.S. No. 1327 of 2018. State has submitted a report which reflects that a case being Domjur Police Station Non Cognizable Register Number 88 of 2025 dated 26.01.2025 has been registered for investigation under Section 126 of BNSS, 2023. Certain photographs have also been enclosed by the police authorities. Primarily the accusation made

by the petitioner received support from the action taken by the police authorities. However, since the civil court is already in seisin of the issue, for permanent solution, the petitioner would take out appropriate application before the civil court which will decide the issue relating to egress, ingress as well as other obstructions created for the pathway concerned.

Learned advocate appearing for the respondent no.6 denies and disputes each of the contention of the petitioner and further submits that the pathway which was claimed by the petitioner belongs to the private respondent.

Be that as it may, this Court will not enter into the domain of the right, title and interest of a property which is the absolute domain of the civil court. The police authorities, however, would ensure that no breach of the peace or tranquility and/or any untoward incident under Section 133 of the Code of Criminal Procedure/Section 152 of BNSS takes place at the locale.

With the aforesaid observations, the writ petition being WPA 7378 of 2025 is disposed of.

There will be no order as to costs.

All concerned parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

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

(Tirthankar Ghosh, J.)