

**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

M.A.T. 1040 of 2025

Hiralal Pitari @ Chakraborty & Ors.
vs.
The State of West Bengal & Ors.
With
CAN 1 of 2025

For the Appellants	: Mr. Kallol Basu, Sr. Adv., Mr. Sakya Maity Mr. Swapnamoy Sarkar
For the State	: Mr. Kishore Datta, Ld. A.G., Mr. Amitabrata Roy, Ld. G.P., Ms. Sumita Shaw Mr. Soumen Chatterjee
For the Respondent Nos. 6 to 13	: Mr. Siddhartha Sarkar Mr. Amit Ranjan pati Mr. Sunayan Ghosh Ms. K. Kubra
Heard & Judgment on	: July 25, 2025

DEBANGSU BASAK, J.:-

1. Appeal is at the behest of the writ petitioners and directed against an order dated May 8, 2025 passed in W.P.A. 9588 of 2025.

2. By the impugned order, learned Single Judge noted that there are civil as well as criminal proceedings pending between the private parties. Learned Single Judge also noted that there are orders passed in the writ jurisdiction. Learned Single Judge, therefore, decided to dispose of the writ petition by requesting the police authorities to oversee that no breach of peace and tranquility takes place at the locale and/or any untoward incident results by reason of strained relationship existing between the private parties.
3. Learned advocate appearing for the appellants submits that the right, title and interest of the appellants in respect of the property concerned stand crystallized by dint of an order passed by the concerned Block Land & Land Reforms Officer. He submits that 23.98 acres of land are Raiyati land and 5.72 acres of land belongs to the deity.
4. Learned advocate appearing for the appellants submits that, by way of a writ petition being W.P. 1083 (W) of 2004 which was disposed of by an order dated February 20, 2004, the Writ Court directed the police to maintain peace at the locale. He refers to a subsequent order dated October 5, 2005 passed in W.P. No. 13976 (W) of 2005. He submits that again police were directed to render assistance to the appellants.

5. Learned advocate appearing for the appellants submits that, the private respondents filed a civil suit in the Court of learned Civil Judge, Senior Division, Paschim Medinipur being T.S. No. 380 of 2024. Initially, an order of injunction was passed in civil suit which stood vacated. Despite the order of injunction standing vacated, the private respondents are obstructing the appellants from enjoying the usufructs of the immovable properties concerned. He submits that, the learned Single Judge erred in not directing the police authorities to ensure that the appellants are in a position to harvest the crops cultivated on the property concerned.
6. Learned advocate appearing for the private respondents submits that none of the private respondents were parties to the earlier two writ petitions in which the orders dated February 2, 2004 and October 5, 2005 were passed. He submits that a Public Interest Litigation was filed which was disposed of by an order dated September 12, 2024 being W.P.A. (P) 373 of 2024. He submits that the private respondents filed a civil suit being T.S. 380 of 2024 in which an interim order was passed. The private respondents filed a miscellaneous appeal against the order vacating the order of injunction. Such miscellaneous appeal is still pending.
7. Learned advocate appearing for the private respondents submits that some of the private respondents belong to the Scheduled Castes and

Scheduled Tribes. The appellants are preventing the members of the Scheduled Castes and Scheduled Tribes at the village from offering puja at the deity. He submits that the debutter was held to be a public property. Consequently, he submits that appellants cannot claim right over a public property.

8. Learned advocate appearing for the State draws the attention of the Court to the police complaint. She submits that no specific incident was stated in such police complaint for the police to take any steps or measures.
9. Appellants before us claim that they possess exclusive right to cultivate the immovable properties concerned. Appellants claim such right by dint of an order passed by the concerned B.L. & L.R.O. Appellants claim that their possession and their right to use the usufructs of the properties concerned stood protected by at least two orders passed by the Writ Court earlier.
10. We find from the records that in respect of the immovable properties concerned, two earlier writ petitions were filed at the behest of the appellants before us. A Public Interest Litigation was instituted at the behest of the private respondents. There is a civil suit pending between the private parties in the appeal. We also find that there are criminal cases

pending between the private parties relating to the immovable properties concerned.

11. First in point of time is W.P. No. 1083 (W) of 2004 which was disposed of by an order dated February 20, 2004 granting police assistance to the appellants before us. None of the private respondents herein were parties to such writ petition.
12. Next, in point of time is a writ petition being W.P. 13976 (W) of 2005 which was disposed of by an order dated October 5, 2005 again extending the police assistance to the appellants before us. Such writ petition filed at the instance of the appellants before us did not arrange any of the private respondents before us as respondents to such writ petition.
13. These two orders, therefore, justifiably are not bind upon the private respondents before us. They are not parties there.
14. Third writ petition is in the nature of public interest litigation being W.P.A. (P) 373 of 2024. Such Public Interest Litigation was instituted at the instance of the some of the private respondents before us. Such public interest litigation was disposed of by an order dated September 12, 2024, after noting that there is a civil suit pending in which there subsisted an order of *status quo* dated August 3, 2024.

15. There is a civil suit pending between the private parties before us being T.S. No. 380 of 2024 in Court of the learned Civil Judge, Senior Division, Paschim Medinipur. An order dated August 3, 2024 was passed in such civil suit directing maintenance of status quo. The properties involved are the same. Such *status quo* order was subsequently vacated. A Miscellaneous Appeal is pending against the order vacating the order of *status quo*.

16. In such factual matrix, we not in a position to arrive at a conclusive finding that the right, title and interest of the appellants as claimed by them stand crystallized for a Writ Court to intervene. There is a civil suit pending which is yet to be disposed of. Notwithstanding the civil Court vacating the interim order and notwithstanding the fact that there is an appeal pending with regard to such an order of the civil Court, the civil Court is yet to decide finally on the issues raised in such civil suit. Till such time, the issues raised in the civil suit are finally decided, it would be inappropriate for a Writ Court to proceed on the basis that the appellants possess exclusive right to enjoy the usufructs of the immovable properties concerned.

17. Learned Single Judge, therefore, noting the existence of such disputes between the private parties directed the State to ensure that no breach of peace occurs at the locale.

18. In such circumstances, we find no ground to interfere with the order impugned.

19. **M.A.T. 1040 of 2025** and the connected application **CAN 1 of 2025** are dismissed without any order as to costs.

(Debangsu Basak, J.)

20. I agree

S.D.

(Md. Shabbar Rashidi, J.)