

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

PRESENT:

THE HON'BLE JUSTICE TIRTHANKAR GHOSH

WPA No. 16333 of 2025

Sri C. V. Ranga Venkatesh Rao
-Versus-
The State of West Bengal & Ors.

For the Petitioner : Mr. Joyak Kumar Gupta
Mr. Nandadulal Bandyopadhyay
Mr. Pranab Halder

For the State : Mr. Dipanjan Datta
Ms. Rituparna Ghosh

Heard On : 30.07.2025

Judgement On : 30.07.2025

Tirthankar Ghosh, J. :

Petitioner is aggrieved by the fact that inspite of the direction passed by the learned Civil Judge (Jr. Divn.), 3rd Court, Alipore in TS 746 of 2024 and specific directions upon the police authorities having been passed, the police authorities even after being informed are not taking appropriate steps.

The petitioner further complains that a padlock have been affixed which is affecting the right of the petitioner. The petitioner, additionally, is suffering from scarcity of water as obstructions are created to the water pump and the reservoir.

The petitioner has relied upon a Judgment of the Hon'ble Supreme Court reported in (2006) 4 SCC 501 [P.R. Murlidharan & Ors. –vs.- Swami Dharmananda Theertha Padar & Ors. Emphasis is laid on paragraphs 18 and 19 of the said judgment, which are set out below:

“18. *In the case on hand, various disputed questions arose based on a deed of trust and the facts pleaded by the writ petitioner and controverted by the other side. The High Court should have normally directed the writ petitioner to have his rights adjudicated upon, in an appropriate suit in a civil court. The fact that a writ petitioner may be barred from approaching the civil court, in view of Order 9 Rule 9 of the Code of Civil Procedure, or some other provisions, is no ground for the High Court to take upon itself, under Article 226 of the Constitution, the duty to adjudicate on the civil rights of parties for the purpose of deciding whether a writ of mandamus could be issued to the police authorities for the protection of the alleged rights of the writ petitioner. A writ of mandamus directing the police authorities to give protection to the person of a writ petitioner can be issued, when the court is satisfied that there is a threat to his person and the authorities have failed to perform their duties and it is different from granting relief for the first time to a person either to allegedly protect his right to property or his right to an office, especially when the pleadings themselves disclose that disputed questions are*

involved. My learned Brother has rightly pointed out that the High Court was in error in proceeding to adjudicate on the rights and obligations arising out of the trust deed merely based on the affidavits and the deed itself. I fully agree with my learned Brother that the High Court should not have undertaken such an exercise on the basis that the right of the writ petitioner under Article 21 of the Constitution is sought to be affected by the actions of the contesting respondents and their supporters and that can be prevented by the issue of the writ of mandamus prayed for.

19. *A writ for “police protection” so-called, has only a limited scope, as, when the court is approached for protection of rights declared by a decree or by an order passed by a civil court. It cannot be extended to cases where rights have not been determined either finally by the civil court or, at least at an interlocutory stage in an unambiguous manner, and then too in furtherance of the decree or order.”*

It has been a settled proposition of law that, for breach of an order of a civil court it is the civil court itself which can pass directions upon the police authorities. The infraction of any direction passed by the Civil Court cannot be acted upon by the police authorities until and unless there is a specific direction being passed by the said Court.

The subject matter of the present application essentially deals with a private dispute wherein the police authorities have been introduced in order to invoke the jurisdiction of this court under Article 226 of the Constitution of India.

The Hon'ble Supreme Court in *Prasanna Kumar Roy Karmakar Vs. State of West Bengal* reported in 1996(3) SCC 403; *Rashina T. vs. Abdul Azeez K.T.* reported in 2019 (2) SCC 329; *Radhey Shyam v. Chhabi Nath* reported in (2009) 5 SCC 616 have deprecated the interference under Article 226 of the Constitution of India in respect of disputes which are purely private and personal in nature and wherein the civil court is already in seisin of the issue.

In view of the subject matter involved in the present writ petition the following paragraphs 9,10,14,15,16,19 and 21 of *Radhey Shyam -versus- Chhabi Nath* (supra) is relevant, the same as such is set out below:-

“9. From the aforesaid narration of events, it is clear that the proceedings in this case arose out of purely civil disputes relating to property and the parties have filed suits before the civil court, and the suits are pending. The parties to the proceedings are all private individuals. Neither the State nor “State” nor an authority under Article 12 is a party to this proceeding. This is clear from the cause-title of this appeal. Now the question is : whether private individuals are amenable to the jurisdiction of writ court in connection with the private disputes relating to property, possession and title between private individuals?

10. As early as in 1957, a Constitution Bench of this Court in Sohan Lal v. Union of India [AIR 1957 SC 529] held that a writ of mandamus or an order in the nature of mandamus is not to be made against a private individual. A writ of and/or in the nature of mandamus normally is issued asking a person to do a particular thing which is in the nature of his public duty.

14. *Apart from the decision in Sohan Lal [AIR 1957 SC 529] , subsequently in Mohd. Hanif v. State of Assam [(1969) 2 SCC 782] a three-Judge Bench of this Court explaining the general principle relating to the High Court's jurisdiction under Article 226 held that the jurisdiction of the High Court is extraordinary in nature and is vested in the High Court not for the purpose of declaring the private rights of the parties but it is conferred for the purpose of ensuring that the law of the land is implicitly obeyed and that the various tribunals and public authorities are kept within the limits of the jurisdiction (see SCC p. 786, para 5).*

15. *The learned Judges in Hanif case [(1969) 2 SCC 782] reiterated the principle further by saying : (SCC p. 786, para 5)*

“5. ... In a proceeding under Article 226 the High Court is not concerned merely with the determination of the private rights of the parties; the only object of such a proceeding under Article 226 is to ensure that the law of the land is implicitly obeyed and that various authorities and tribunals act within the limits of their respective jurisdiction..”

16. *The learned Judges in Hanif [(1969) 2 SCC 782] referred to the decision of this Court in T.C. Basappa v. T. Nagappa [AIR 1954 SC 440 : (1955) 1 SCR 250] and held that : (Hanif case [(1969) 2 SCC 782] , SCC p. 786, para 5)*

“5. ... It is obvious that the remedy provided under Article 226 is a remedy against the violation of the rights of a citizen by the State or statutory authority. In other words, it is a remedy in public law.”

19. Same caution was sounded in a subsequent decision of *Mohan Pandey v. Usha Rani Rajgaria* [(1992) 4 SCC 61 : AIR 1993 SC 1225] wherein the learned Judges held that a regular suit is the appropriate remedy for settlement of disputes relating to property rights between private persons. Remedy under Article 226 of the Constitution is not available except where violation of some statutory duty on the part of a statutory authority is complained of. The Court made it very clear by making the following observations : (SCC p. 63, para 6)

“6. ... The High Court cannot allow the constitutional jurisdiction to be used for deciding disputes, for which remedies, under the general law, civil or criminal, are available. It is not intended to replace the ordinary remedies by way of a suit or application available to a litigant. The jurisdiction is special and extraordinary and should not be exercised casually or lightly.”

21. Rather recently in *P.R. Murlidharan v. Swami Dharmananda Theertha Padar* [(2006) 4 SCC 501] P.K. Balasubramanyan, J. (as His Lordship then was) in a concurring but a separate opinion held that it would be an abuse of the process for the petitioner to approach the writ court seeking for a writ of mandamus directing the police authorities to protect his property without first establishing his possession in an appropriate civil court. The learned Judge made very pertinent observations by saying that : (SCC p. 506, para 17)

“17. ... The temptation to grant relief in cases of this nature should be resisted by the High Court. The wide jurisdiction under Article 226 of the Constitution would remain effective

and meaningful only when it is exercised prudently and in appropriate situations.”

The same has been consistent view of this Court in Maharani Mondal @ Biswas vs. State of West Bengal reported in 1999 SCC OnLine Calcutta 387; CPA Consultancy Services Private Limited, Employees Union vs. CPA Consultancy Services Private Limited 1994 SCC OnLine Calcutta 77, Mohinul Haque @ Mohinur Haque Chowdhury vs. State of West Bengal 1995 SCC OnLine Calcutta 369.

Learned advocate for the State is present. It has been submitted that for breach of the civil court's order, appropriate remedy can be applied before the said civil court and it would be travesty for the police authorities if they are directed to interfere in regular civil disputes.

I have considered the prayer advanced before this Court by the petitioner for invoking the jurisdiction under Article 226 of the Constitution of India.

Having considered that the final determination of rights of the petitioner is still pending, I am of the opinion that there is no scope for interference of this court, at this stage, by invoking the jurisdiction under Article 226 of the Constitution of India.

Accordingly, W.P.A. No. 16333 of 2025 is **dismissed**.

Pending connected application(s), if any, are also disposed of.

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

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

(Tirthankar Ghosh, J.)