

09.09.2025
Court No.35.
D.L.34
(pp)

WPA 20153 of 2025

Md. Hayatulla

-Vs.-

The State of West Bengal & Ors.

Mr. Dhananjoy Nayak

...for the petitioner.

Mr. K, J. Yusuf,
Mr. Pradyot Kumar Das

....for the State.

Mr. Md. Sarwar Jahan,
Md. Ashraful Huq,
Ms. Tapati Sarkar

....for the respondent nos.4 to 7.

1. Learned advocate appearing for the petitioner submits that the petitioner is aggrieved by the fact that in T. S. 230 of 2024, the learned Civil Judge (Junior Division), 2nd Court Berhampore, Murshidabad was pleased to restrain the defendants of disturbing the peaceful cultivation of the plaintiff from changing the nature and character of the suit property. The petitioner thereafter preferred an application before the learned Executive Magistrate under Section 144 of Cr. P. C. and also under Section 163(2) of BNSS.

2. In spite of the direction passed by the learned Executive Magistrate upon the Inspector-in-Charge, Beldanga Police Station thereby directing for going through the order passed by the learned Civil Judge and for

maintaining law and order, no steps have been taken and the petitioner is faced with serious inconvenience.

3. Learned advocate for the private respondent nos.4 to 7 submits that earlier a similar writ petition was preferred, being WPA 20609 of 2024 and there was an allegation regarding obstruction in the matter of construction of boundary wall to that effect. The same case, being T. S. 230 of 2024 was brought to the notice of the court and the injunction order referred to is dated 2nd August, 2024.

4. This Court, on perusal of the materials, was pleased to direct that since the civil suit is pending and the dispute is relating to property, petitioner was granted liberty to approach the civil court in the aforesaid civil suit praying for appropriate reliefs.

5. Learned advocate for the State has submitted a report prepared by S.I. of Police, Beldanga Police Station, which reflects that the Title Suit No.230 of 2024 is pending between the parties. There have been proceedings under Section 163 of BNSS. It is also reflected that the respondent no.6 filed a partition suit before the learned Civil Judge (Senior Division), 2nd Court, Berhampore, Murshidabad, being T. S. Case No.364 of 2025. A *status quo* order has been passed on 16th July, 2025 by the Civil Judge (Senior Division), 2nd Court, Berhampore, Murshidabad.

6. Having considered that the petitioner and the private respondents are before the civil court and there was earlier

directions by this Hon'ble Court to approach the civil court for appropriate reliefs, a direction in T. S. 230 of 2024 cannot be the only mode and manner in which in a summary manner the writ Court can interfere by way of passing specific directions.

7. Needless to state that the partition suit and the orders passed therein will also have a bearing in respect of the property and the nature of reliefs claimed for.

8. Be that that as it may, since the title suit as also the partition suit is pending before the learned Civil Judge, it would be appropriate for the petitioner as also the other parties to approach the jurisdictional civil court.

9. If there is a breach of civil court's order, there are enough provisions within the domain of the Code of Civil Procedure to be dealt with.

10. Unnecessarily, this Court will not interfere by invoking its jurisdiction under Article 226 of the Constitution of India.

11. With the aforesaid observations, WPA 20153 of 2025 is disposed of.

12. Report so submitted be kept with the record.

13. Urgent Photostat certified copy of this order may be supplied to the parties upon all formalities, if applied for.

(Tirthankar Ghosh, J.)