

**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

**MAT/1572/2025
WITH
IA NO: CAN/1/2025**

**SUMON MAHINDER
VS
THE STATE OF WEST BENGAL AND ORS.**

For the Appellants :Mr. Swapan Kumar Mazumder, Advocate
Mr. Saptarshi Mazumdar, Advocate

For the State :Mr. Dipanjan Datta, Ld. Sr. Govt. Adv.
Ms. Tanuja Basak, Advocates

For the Private :Mr. S. S. Arefin, Advocate
Respondent

Heard & Judgment on: September 24, 2025

Debangsu Basak, J.

1. Appeal is directed against an order dated August 12, 2025 passed in WPA 18196 of 2025.
2. Appeal is at the behest of the writ petitioner.

3. Learned advocate appearing for the appellant submits that the appellant and the private respondent no. 5 are brothers. Suit of the deceased father is yet to be divided by metes and bounds. However, there is an arrangement between the brothers and the respondent No. 5 while running a shop room exclusively, while the petitioner will be running the subject shop room exclusively.
4. Learned advocate appearing for the appellant submits that police locked the shop room run by the appellant forcibly. It is against such police over action that, the appellant filed the writ petition. He submits that, there is a criminal complaint lodged also.
5. With regard to the issue as to whether the writ petition is maintainable or not, learned advocate for the appellant relies upon **2023 INSC 92 [M/s. Godrej Sara Lee Ltd. vs. The Excise And Taxation Officer-Cum-Assessing Authority & Ors.], 1998 8 SCC 1 [Whirlpool Corporation vs. Registrar of Trade Marks, Mumbai & Ors.]** and a decision of a learned Single Judge of the Karnataka High Court reported in **1983 2 KarLJ 329 [G. N. Gurusiddappa vs. Circle Inspector of Police, Arasikere]**.
6. State is represented as also the respondent No. 5.
7. In response to a query of the Court, learned advocate appearing for the State submits that police complaint was registered as an first

information report and that charge sheet was submitted therein. He denies that, the police put any padlock in the shop room.

8. Learned advocate appearing for the respondent No. 5 submits that his client did not put any padlock in the shop room.
9. Existence of alternative remedy is not a complete bar to the maintainability of a writ petition or its entertainability in a given facts and circumstances of a case. It is so recognized by the Supreme Court the authorities cited before us namely, **Godrej Sara Lee Ltd. (supra)** and **Whirlpool Corporation(supra)**.
10. Notwithstanding the existence of alternative remedy, a writ petition is maintainable in the event it is established that, a fundamental right of the writ petitioner is violated or where the decision taken is arbitrary or contrary to a Constitutional provision or Statute or the decision impugned is wholly without jurisdiction.
11. In **Godrej Sara Lee Ltd. (supra)**, the Court found police over action.
12. In the facts and circumstances of the present case, there are civil disputes between the private parties. In respect of the police complaint the same was registered as a first information report and a charge sheet with regard thereto submitted by the police.
13. Police denies putting any padlock in the shop room. Private respondent denies the same also. There are, however, civil disputes between the private parties.

14. Question of police over action does not arise. Civil Disputes between the private parties need not be adjudicated upon by a writ Court.

15. In such circumstances, we find no merit in the present appeal.

16. MAT/1572/2025 along with the connected application are **dismissed** without any order as to costs.

(Debangsu Basak, J.)

17. I agree

(Md. Shabbar Rashidi, J.)