

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

HEARD ON: 26.02.2025

DELIVERED ON: 26.02.2025

**CORAM:
THE HON'BLE CHIEF JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE JUSTICE CHAITALI CHATTERJEE (DAS)**

**F.M.A. 32 of 2025
With
I.A. No. CAN 1 of 2024**

**Subod Mondal & Anr.
Vs.
Samir Mondal & Ors.**

Appearance:-

**Mr. Shahan Shah
Mr. Soumen Barman
Mr. Sk. Abumusa
Mr. Umenun Khan
Md. Shahjahan**

.....for the appellants

**Mr. Amal Kr. Sen
Ms. Ashima Das (Sil)**

.....for the State

**Mr. Lakshminath Bhattacharya.....for the respondent no.1/
Writ petitioner**

JUDGMENT

(Judgment of the Court was delivered by T.S. SIVAGNANAM, C.J.)

1. This intra-Court appeal by the private respondent in W.P.A. 19493 of 2024 is directed against the order dated October 4, 2024, wherein the learned writ Court while bringing on record that the learned Civil Judge (Junior Division), 3rd Court, Diamond Harbour has passed an order, which gives right, title and interest also to the writ petitioner, observed that the

jurisdiction of the writ Court is not to decide the right, title and interest and to ensure that both the parties can enjoy the property, there were other directions given to the police authorities to keep strict vigil in the area and ensure that there is no breach of peace and tranquillity.

2. At the outset, it needs to be pointed out that the prayer sought for in the writ petition was, in effect, to execute the decree passed in Title Suit No. 92 of 2021 dated June 5, 2023. If the respondent no.1/writ petitioner has a decree in his favour, nothing prevents the respondent no.1/ writ petitioner from executing the decree in the manner known to law and the writ Court cannot be converted into that of an executing court. Therefore, any observation made by the learned writ Court touching upon the effect of the decree will be wholly without jurisdiction and accordingly, the same is set aside.
3. However, if any criminal offence is committed by either of the parties, it will be well open to them to approach the jurisdictional police authorities, who will take action in accordance with law.
4. With the above observations, the appeal is allowed to the extent indicated above.
5. No costs.
6. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

I agree.

(CHAITALI CHATTERJEE (DAS), J.)