

Dd

13 25.11.2025

In the High Court At Calcutta

CIRCUIT BENCH AT JALPAIGURI

APPELLATE SIDE

MAT/98/2025

KAIZEN COMMODITIES PRIVATE LIMITED

VS

*THE CHAIRMAN AND CHIEF EXECUTIVE
OFFICER, RAILWAY BOARD AND ORS*

IA NO: CAN/1/2025

*Mr. Saptangshu Basu, Id. Sr. Adv.
Mr. Bikramaditya Ghosh,
Mr. Pretom Das,
Mr. Abhishek Sen,
Mr. Ved Rai,
Mr. Mayank Bhandari,
Mr. Binayak Bandhopadhyay, Advocates
... .. For the Appellant*

*Mr. Sudipto Kumar Mazumder, DSGI
Mr. Ajoy Singhanian,
Mr. Sourab Kar, Advocates
... .. For the Railways*

1. Appeal is at the behest of the writ petitioner and directed against an order dated November 21, 2025 passed in WPA 2317 of 2025.
2. Learned senior advocate appearing for the appellant submits that, the learned Single Judge refused to grant interim relief by the impugned order. Learned Single Judge also refused to record the prayer for interim relief in the impugned order.
3. Learned senior advocate appearing for appellant submits that, there subsists a decree passed by a competent civil Court being the learned Civil Judge (Junior Division) 1st Court, Jalpaiguri in Title Suit No. 209 of 2009 dated May 24, 2013. He submits that, the appellant was declared to possess absolute title and to be in possession over the suit property. He points out that, the Railways were

defendants in such suit. The judgment dated May 24, 2013 declared the Railways not to possess any right or authority over the suit property.

4. Learned senior advocate appearing for the appellant submits that, the Railways floated a tender for the purpose of granting parking rights on the subject plots of land. He submits that, the same is contrary to the subsisting judgment and decree passed in Title Suit No. 209 of 2009.
5. Learned senior advocate appearing for the appellant relies on **(2006) 4 SCC 501 [P.R. Murlidharan & Ors. vs. Swami Dharmananda Theertha Padar & Ors.]** for the proposition that, a writ Court can grant an order protecting the rights declared by a decree or an order passed by the civil Court.
6. Learned Deputy Solicitor General appearing for the respondents submits that, he needs to take instructions with regard to whether or not the property in question was utilized for the purpose of tender process as alleged by the appellants. He points out that, by the impugned order, the learned Single Judge called for a report in order to find out as to whether or not, the property belonging to the appellant was utilized by the Railways. He submits that, time is required for the purpose of submitting the report as called for by the learned Single Judge.
7. *Prima facie*, it appears that, in Title Suit No. 209 of 2009, title to the immovable property concerned was declared in favour of the appellant and as against the Railways. Railways were defendants in Title Suit No. 209 of 2009.
8. Right of appellant to the immovable property concerned being declared by a civil Court, the appellant can approach the writ Court for protection as held in **P.R. Murlidharan (supra)**
9. The writ petition filed by the appellant is still pending. In the interregnum the right of the

appellant in respect of the immovable property concerned, as declared by civil Court, requires protection.

10. In such circumstances, it would be appropriate to restrain the Railways from proceeding with the tender process in respect of the immovable property concerned, in any manner whatsoever, without obtaining prior leave of the learned Single Judge before which, the writ petition is pending.
11. It is clarified that, all points raised by the parties are kept open to be decided by the learned Single Judge.
12. MAT/98/2025 along with the connected application **disposed of** without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)