

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Before:

The Hon'ble Justice Hiranmay Bhattacharyya

**WPA 3598 of 2026
Bishnu Prasad Ganeriwalla & Ors.
VS.
The State of West Bengal and others**

For the petitioners : Mr. Partha Pratim Roy
Mr. Tanmoy Mukherjee
Mr. Souvik Das
Mr. Rudranil Das

..... advocates

For the State : Mr. Mr. Soumitra Bandyopadhyay,
Sr. Govt. Advocate
Ms. Suchana Banerjee

..... advocates

For the Respondent no. 4 : Mr. Apurba Kumar Ghosh
Mr. Rudranil Ghosh advocates

Heard on : 18.02.2026

Judgment on : 18.02.2026

Hiranmay Bhattacharyya, J.:-

1. Affidavit of service filed in Court today is taken on record.
2. As prayed for by the learned advocate for the petitioners, leave is granted to file supplementary affidavit.
3. Supplementary affidavit filed in Court today is taken on record.
4. The petitioners claim to be the lawful tenants in respect of different portions of premises no.6, Punam Chand Bagaria Road under Police Station Bally in the

District of Howrah. The petitioners claim that they are paying rent on regular basis. The petitioners further state that they are carrying on business from the tenanted property after obtaining necessary licences from the concerned authorities. Alleging that the private respondents are creating obstruction in the ingress and egress of the petitioners to and from the main road to their tenanted premises, they had filed a suit being Title Suit No.1230 of 2024 before the learned Civil Judge (Junior Division), 1st Court at Howrah praying for a declaration of their right of way to and from the main road to their tenanted premises through the passage as described in Schedule 'A' to the plaint. The petitioners took out an application under Order 39 Rule 1 and 2 of the Code of Civil Procedure praying for an order of temporary injunction restraining the private respondents and their men and agents from creating any disturbances and/or obstruction to the free ingress and egress of the petitioners and their men and customers to and from the tenanted premises to the municipal road through the suit passage by closing the suit gate.

5. Mr. Roy, learned advocate appearing for the petitioners submits that the learned Civil Judge (Junior Division), 1st Court at Howrah passed an ad interim order of injunction on 6th September, 2024 for a limited period. He further submits that the ad interim order of injunction is being extended from time to time and the same is still subsisting. He further submits that one of the petitioners namely, Dilip Das approached this Court by filing a writ petition being WPA 28915 of 2024 and a Coordinate Bench passed an order on 10th December, 2024 directing the police authorities to ensure that there is no breach of peace or tranquility over the issues complained of in the writ petition. Mr. Roy concluded by submitting that the police authorities are not taking any steps to implement the order passed by the civil court.

6. Mr. Roy, learned advocate appearing for the petitioners places reliance upon a decision of the Hon'ble Supreme Court in the case of **Meera Chauhan Vs. Harsh Bjshnoi and another**¹ in support of his contention that appropriate direction to the police authority to render aid to the aggrieved party for due and proper implementation of the orders passed in the suit can be passed.
7. The learned advocate appearing for the private respondent submits that several title suits are pending between the parties before the civil court of competent jurisdiction. He further submits that the petitioners have also filed an application under Section 151 of the Code of Civil Procedure before the civil court praying for a direction upon the police authorities to implement the order of injunction. He submits that such application is still pending. He submits that till date the civil court has not passed any order directing the police authorities to implement its own order of injunction.
8. Mr. Bandyopadhyay, learned Senior Government Advocate submits that the petitioners have alleged violation of an order of injunction passed by the civil court. He submits that the Civil Procedure Code provides for an adequate remedy to an aggrieved party alleging violation of an order of injunction. He submits that the petitioners ought to have availed of such remedies instead of approaching the writ court.
9. Heard the learned advocates for the parties and perused the materials placed.
10. It is not in dispute that a Title Suit No. 1230 of 2024 is pending before the learned Civil Judge (Junior Division), 1st Court at Howrah and in the said suit the learned Civil Judge has passed an ad interim order of injunction on 6th September, 2024 restraining the defendants of the said suit who are the private respondents herein

¹ (2007) 12 SCC 201

from creating any obstruction in the free ingress and egress of the plaintiffs and their customers through the 'A' and 'B' Schedule passage and iron gate in any manner for a specified period. It is not in dispute that the said order of injunction is extended from time to time and the same is still in subsistence. It is also not in dispute that pursuant to the liberty granted by a Co-ordinate Bench in the order dated 10th December, 2024 in WPA 28915 of 2024 the petitioners filed an application before the learned civil court for a direction upon the police authorities to render assistance for implementation of the ad interim order of injunction.

11. It has been uniformly submitted by the learned advocates for the petitioners and the private respondents that the said application for police help is still pending before the civil court.
12. A party to a civil suit alleging violation of an order of injunction can file an application under Order 39 Rule 2A of the Code of Civil Procedure. It is now well settled that a party can also approach the court praying for implementation of the order of injunction instead of availing of the remedies under Order 39 Rule 2A of the Code of Civil Procedure.
13. Petitioners claim that they are monthly premises tenants in respect of the premises in question.
14. The learned Civil Judge after considering the tenancy agreements dated 11.08.2008 and 14.12.2003 arrived at a prima facie finding that there exists a passage and iron gate in respect of the tenanted premises as mentioned in Schedule A and B to the suit. In the light of the said prima facie finding, an ad interim order of injunction was passed restraining the private respondents herein from creating any obstruction in the free egress and ingress of the petitioners and their customers through A & B schedule passage and iron gate in any manner.

No document has been produced by the private respondents before this Court even in course of hearing of this writ petition so show that the petitioners are not in occupation of the property in question.

15. The ingress and egress of a party in occupation of an immovable property cannot be obstructed through illegal means. That apart, the civil court has passed an order of injunction restraining the private respondents from creating any obstruction in the free ingress and egress of the petitioners and their customers through the 'A' and 'B' Schedule passage and iron gate.
16. A party should not suffer on the ground of pendency of an application before the civil court. The petitioners have approached the civil court praying for directions to implement the order of injunction and the civil court is in seisin over the matter. The police authorities are duty bound to obey and implement the orders passed by the civil court till the same is modified, varied or vacated. It is not the case of the private respondent that the ad interim order of injunction has been varied, modified or vacated in the meantime.
17. The Hon'ble Supreme Court in the case of **Meera Chauhan**² (supra) reiterated the well settled proposition of law that when parties violate order of injunction or stay order or act in violation of the said order the court can, by exercising its inherent power, put back the parties in the same position as they stood prior to issuance of the injunction order or give appropriate direction to the police authority to render aid to the aggrieved parties for the due and proper implementation of the orders passed in the suit and also order police protection for implementation of such order.

² (2007) 12 SCC 201

18. In the case on hand the petitioners have already approached the civil court alleging that the private respondents are violating the order of injunction and filed an application praying for a direction upon the police authorities to implement the order of injunction. Since the said application is still pending and it is alleged that there is violation of the order of injunction this Court is inclined to exercise the power under Article 226 of the Constitution of India to protect the parties and to see that the police authorities take steps to implement the order passed by the civil court till the application for police help is decided by the Civil Court or the ad interim order is varied, vacated, modified or set aside in accordance with law, whichever is earlier.
19. The Inspector-in-Charge of the Bally Police Station is directed to implement the order dated 6th September, 2024 passed in Title Suit No. 1230 of 2024 which has been extended from time to time till the disposal of the application for police help pending before the civil court or till the order of injunction is varied, modified, set aside or vacated, whichever is earlier.
20. It will be open to the police authorities to carry out surprise inspection for such purpose and take steps in accordance with law to ensure that the same is not disobeyed.
21. With the above observations and directions, WPA 3598 of 2026 stands disposed of. There shall be however no order as to costs.
22. Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)