

01.04.2026
Item Nos.54 to 59
Ct. No.1
RP

M.A.T. 312 of 2026
With
I.A. No. CAN 1 of 2026
Saroj Praharaj
Vs.
Subham Singh & Ors.
With
M.A.T. 306 of 2026
With
I.A. No. CAN 1 of 2026
Vrindavan Das
Vs.
Subham Singh & Ors.
With
M.A.T. 310 of 2026
Vrindavan Das
Vs.
Subham Singh & Ors.
With
M.A.T. 311 of 2026
Saroj Praharaj
Vs.
Subham Singh & Ors.
With
M.A.T. 313 of 2026
Saroj Praharaj
Vs.
Subham Singh & Ors.
With
M.A.T. 314 of 2026
Saroj Praharaj
Vs.
Subham Singh & Ors.

Mr. Kishore Dutta, Ld. A.G.
Mr. Swapan Banerjee, Ld. A.G.P.
Ms. Sumita Shaw
Mr. D. Narayan Banerjee
Mr. Soumen Chatterjee

.....For the Appellant-State in
(M.A.T. 312 of 2026, MAT 311 of 2026,
M.A.T. 313 of 2026 & M.A.T. 314 of
2026)

Mr. Sourav Sen, Sr. Adv.
Mr. Aniruddha Chatterjee,
Mr. Rohit Kumar Yadav

.....For the appellant
(MAT 306 of 2026 & MAT 310 of 2026)

And

.....For the respondent No.7
(MAT 312 of 2026, MAT 311 of 2026,
MAT 313 of 2026 & MAT 314 of 2026)

Mr. Suddhasatva Banerjee
Mr. Krishnaraj Thaker, Sr. Adv.
Mr. Deepak Kripalani
Mr. Rohan Thakur

.....For the Respondent no.1
Mr. Kishore Datta, Ld. A.G.
Mr. Swapan Banerjee,
Ms. Sumita Shaw,
Mr. Soumen Chatterjee,
Mr. Diptendu Narayan Banerjee,
Mr. Dhruba Datta

.....For the State.

DICTATED BY SUJOY PAUL, C.J.:

1. Mr. Dutta, learned Advocate General appears

for the appellants in M.A.T. 312 of 2026, MAT

311 of 2026, M.A.T. 313 of 2026 & M.A.T. 314 of

2026 and Mr. Sen, learned senior advocate

appears for the appellants in MAT 306 of 2026 &

MAT 310 of 2026 and Mr. Thakkar, learned senior

advocate appears for the respondent no.1.
2. Regard being had to the similitude of the

questions involved, on the joint request of the

parties, the appeals are heard only on the question of maintainability of these intra-Court appeals.

3. These intra-Court appeals have called in question the legality, validity and propriety of the interlocutory order passed by the learned Single Judge dated 13th February, 2026 whereby CAN 1 of 2026 and CAN 2 of 2026 filed in connection with CPAN 1981 of 2025 were dismissed.
4. The relevant facts necessary for adjudication of these appeals are that the respondent/writ petitioner filed WPA 5513 of 2023 wherein he prayed for direction on the police authority to ensure protection of temple of the petitioner. In addition, he prayed for a direction to execute the direction of the Executive Magistrate dated 13.2.2023. The said writ petition was disposed of by order dated 3.4.2023 (Annexure P3) by directing the respondents that civil Court's order of injunction shall be strictly enforced by the

Watgunge Police Station. Admittedly, the order dated 3.4.2023 passed in WPA 5513 of 2023 has attained finality in absence of any challenge by the parties.

5. The aforesaid writ petitioner filed contempt petition being CPAN 1981 of 2025 by contending that despite the order of the Court, with the connivance of police the injunction order was breached. The learned Single Judge by order dated 14.01.2026 recorded that a video footage of the incident was examined by him and formed a prima facie opinion that Court's order has been flagrantly violated. In order to ensure the said Court order is implemented it was directed that the order of civil Court has to be complied with and enforced and accordingly directed that *status quo ante* needs to be maintained.
6. The order dated 14.1.2026 is under challenge in one of the intra Court appeals. The appellants are mainly aggrieved by order

dated 13.02.2026 wherein the learned Single Judge has recorded certain findings and issued rule.

7. Mr. Thakkar, learned senior counsel for the respondent no.1 raised preliminary objection regarding maintainability of these appeals by contending that so far the appeals filed by the State/Officer-in-Charge Saroj Praharaj is concerned the State should not be permitted to come forward to argue against an interlocutory order passed by the civil Court in an inter se dispute between two private parties and the said interim protection was directed to be implemented by this Court. The State has no business to enter into the said aspect. Secondly, it is submitted that the impugned interlocutory order passed by the learned Single Judge does not fall within the ambit of "judgement" as per the law laid down by the Supreme Court in the case of **Midnapore Peoples' Coop. Bank Ltd. & others vs. Chunilal Nanda and others**

reported in **2006(5) SCC 399**. Thirdly, it is submitted that the order impugned is interlocutory in nature and main contempt petition is pending. Pursuant to the rule issued, the State authority can file its response and the learned Single Judge can decide the matter finally.

8. So far as other appeals filed by the private respondent are concerned, Mr. Thaker submits that his above second objection that the impugned interlocutory orders do not have the character of "judgement" will hold the filed for these appeals as well.
9. Faced with this, Mr. Dutta, learned Advocate General and Mr. Sen, learned senior advocate for the appellants/private respondents of the writ petition urged that the aforesaid contentions are incorrect. The learned Advocate General urged that in the main case i.e. WPA 5513 of 2023, the only direction was to ensure strict compliance/enforcement of order of injunction passed by the civil Court.

In contempt jurisdiction, the learned Single Judge has travelled beyond the main order which is impermissible. Secondly, based on the **Midnapore Peoples' Coop. Bank Ltd.** (supra) it is submitted that the impugned order falls within the ambit of 'judgement' as per categories specified by the Supreme Court in paragraph 15(ii) and (iii) of the said judgment. These intra-Court appeals against the interlocutory order are indeed maintainable.

10. Mr. Sen, learned senior advocate urged that the plaintiff/writ petitioner obtained an *ex parte* injunction on 23.03.2023. His client has already filed an application for vacation of the stay order as well as an application under Order 7 Rule 11 of the Civil Procedure Code, 1908 for rejection of the plaint. Those applications are pending consideration before the civil Court. He submits that in the said applications, it was canvassed that, in fact, his

client is in possession and not the writ petitioner.

11. We have heard the parties only on the question of maintainability of these intra-Court appeals. Admittedly, the order passed by the learned Single Judge in WPA 5513 of 2023 dated 27.03.2023 has attained finality.

12. The application, being CPAN 1981 of 2025, was filed alleging breach of the said order in broad day light in the presence of the concerned police authorities. The learned Single Judge by order dated 14.01.2026 recorded a *prima facie* finding based on the vide footage shown to the Court. Thereafter, the said order was corrected by the Court order dated 16.1.2026 (Annexure P6).

13. As noticed, the order dated 13.02.2026 is causing trouble to the appellants. During the course of argument, the learned Advocate General submits that the finding given by the learned Single Judge in paragraph nos.4 and 8 of the impugned order dated 13.02.2026 are in

the nature of “judgement”. Therefore, in the light of the judgment in **Midnapore Peoples’ Coop. Bank Ltd.** (supra) the appeals are maintainable. The argument on the first blush appears to be attractive but lost much of its shine if a holistic view of matter is taken by this Court. As noticed, the trial Court on 23.03.2023 restrained the defendant to create any obstruction in the possession and enjoyment of the suit property by the plaintiff and to also restrained to change the nature and character of the suit property by way of transfer or assign or any other mode till the next date. Admittedly, this interim order of civil Court is still subsisting. The civil Court on *prima facie* satisfaction that the plaintiff therein is in possession, passed the said injunction order. The writ Court in WPA 5513 of 2023 only ensured compliance of the said order while finally disposing of the matter on 3.4.2023. Admittedly, this order has attained finality.

14. In contempt petition, it was pointed out that in broad day light the possession was disturbed and video footage in this regard was seen by the Court. In paragraph 3 of the order dated 14.1.2026 (Annexure P10), the Court formed a “prima facie” opinion. Thereafter, by order dated 13.02.2026 the Court recorded certain observations which are reproduced for ready reference.

“4. Clearly, Mr. Saroj Praharaj, the officer-in-charge of the Alipore Police Station appears to have illegally and in gross dereliction of duties, taken cudgels on behalf of a private citizen against another. The officer-in-charge therefore has clearly misconducted himself apart from confirming and affirming the contumacious conduct alleged against him.

8. The Alipore Police/Watgunge Police and the private respondent are thus in collusion with one another. Such collusion is writ large in the pleadings themselves in the two applications referred hereinabove. The Alipore Police/Watgunge Police thus has violated the public trust and impartiality expected from a public officer.”

15. If the order of injunction, main order of the writ Court which had attained finality and

the order dated 14.1.2026 and 13.02.2026 are read in continuity it will be clear like noon day that the observations made in paragraph nos.4 and 8 of the impugned order dated 13.02.2026 are *prima facie* findings of the learned Single Judge although the learned Single Judge has not used the words '*prima facie*' in specific. In the context and in the background the said findings are recorded, in our opinion, the findings are of '*prima facie*' in nature. We say so for yet another reason. The rule has been issued and while answering the rule it is open to the alleged contemner to satisfy the Court that no breach of Court's order has taken place on their part. After hearing the parties on this aspect, it will be open to the Court to decide the matter in accordance with law. Thus, paragraph nos.4 and 8 are *prima facie* observations of the learned Single Judge.

16. In **Midnapore Peoples' Coop. Bank Ltd.**

(supra) the Supreme Court observed as follows.

“15. Interim orders /interlocutory orders passed during the pendency of a case, fall under one or the other of the following categories:

- (i) Orders which finally decide a question or issue in controversy in the main case.*
- (ii) Orders which finally decide an issue which materially and directly affects the final decision in the main case.*
- (iii) Orders which finally decide a collateral issue or question which is not the subject matter of the main case.*
- (iv) Routine orders which are passed to facilitate the progress of the case till its culmination in the final judgment.*
- (v) Orders which may cause some inconvenience or some prejudice to a party, but which do not finally determine the rights and obligations of the parties.*

16. The term “judgment” occurring in clause 15 of the Letters Patent will take into its fold not only the judgments as defined in Section 2(9) CPC and orders enumerated in Order 43 Rule 1 CPC, but also other orders which, though may not finally and conclusively determine the rights of parties with regard to all or any matters in controversy, may have finally in regard to some collateral matter, which will affect the vital and valuable rights

and obligations of the parties. Interlocutory orders which fall under categories (i) to (iii) above, are, therefore, “judgments” for the purpose of filing appeals under the Letters Patent. On the other hand, orders falling under categories (iv) and (v) are not “judgments” for the purpose of filing appeals provided under the Letters Patent.”

17. The learned Advocate General urged that the impugned interlocutory order falls within the ambit of (ii) and (iii). We are unable to persuade ourselves to the said line of argument for the simple reason that the orders impugned have not finally decided anything and at the cost of repetition, we have opined that paragraph nos.4 and 8 are *prima facie* observations of the learned Single Judge.

18. By the impugned order, the learned Single Judge has not finally decided any collateral issue or question and, therefore, clause (iii) of paragraph 15 of the judgment of **Midnapore Peoples’ Coop. Bank Ltd.** (supra) is also not attracted. Paragraph 16 is elaboration of the principles laid down in paragraph 15 of the said

judgment and as per paragraph 16 also, no conclusive determination has been made by the learned Single Judge while passing the impugned interlocutory orders. Thus, paragraph 16 is also of no assistance to the appellants.

19. In view of the aforesaid discussion, in our opinion, the impugned routine orders are passed by the learned Single Judge to facilitate progress of the case till culmination in the final judgment. Merely because the said orders caused some inconvenience or prejudice to the appellants, the orders will not fall within the definition of “judgement”. Thus, appeals under Clause 15 of the Letters Patent are also not maintainable. Accordingly, the appeals are **dismissed** as not maintainable. The connected applications are also dismissed.

20. At this juncture, the learned Advocate General submits that in paragraph 5 and 13 of the impugned order, the learned Single Judge has imposed cost which has an element of

finality. We are only inclined to observe that if the appellants are aggrieved by imposition of costs, they may file an application before the learned Single Bench seeking recall of the order to the extent of imposition of cost.

(SUJOY PAUL, CJ.)

(PARTHA SARATHI SEN, J.)