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(DL)

18.03.2026
Ct. No. 05
(ARPAN)

IN THE HIGH COURT AT CALCUTTA

CONSTITUTIONAL WRIT JURISDICTION
(Appellate Side)

W.P.A. 5208 OF 2026

MD. NASIM

VS.

THE STATE OF WEST BENGAL AND OTHERS

Mr. Rafikul Islam Sardar, Adv.

...for the Petitioner

Mr. Biswajit De, Adv.

Mr. Tapas Kumar Dey, Adv.

...for the State

Mr. Joydip Kar, Sr. Adv.

Mr. Pijush Biswas, Adv.

Mr. Abhisek Baran Dey, Adv.

Ms. Meenal Sinha, Adv.

...for the Private Respondents

1. Affidavit-of-service filed on behalf of the petitioner is taken on record.
2. Matter is heard in presence of the learned advocates representing the petitioner, State respondents and private respondents.
3. Learned advocate representing the petitioner submits that petitioner has right over the common passage which is being encroached by the private respondents upon making constructions.
4. It is also submitted on behalf of the petitioner that petitioner had approached the jurisdictional Executive Magistrate and an order was passed on 20th February, 2026 thereby directing the concerned police authorities to maintain *status quo* of possession of the

said land and police authorities were directed to maintain peace and tranquility at the locale.

5. Petitioner prays for direction upon the concerned police authorities which would permit the petitioner to use the said common passage.
6. State respondents are represented by learned advocate who has filed a communication dated 10th March, 2026 of the Inspector-in-Charge, Domjur Police Station, Howrah Police Commissionerate and same is taken on record. Copies of the said communication dated 10th March, 2026 are made over to the learned advocates representing the petitioner and the private respondents.
7. It is disclosed in the said communication dated 10th March, 2026 that petitioner lodged a general diary at Bankra Outpost under Domjur Police Station being No.370 dated 15th December, 2025 and another being No.403 dated 16th February, 2026. It is also disclosed in the said communication that police authorities are taking necessary steps with regard to the aforesaid complaints.
8. Mr. Joydip Kar, learned Senior Advocate representing the private respondents has drawn attention of this Court to the averments made by the petitioner in the application under Section 163 of BNSS filed before the

learned Executive Magistrate, 1st Court, Howrah. It is submitted there was admission on the part of the petitioner that petitioner sold out the land in question to GIS company along with easement right for their ingress and egress.

9. Having considered the respective submissions made on behalf of the parties, it appears that the issue involved in this writ petition is civil in nature. If petitioner is aggrieved by the constructions made by the private respondents encroaching upon the common passage whereupon petitioner has right, in that event, petitioner needs to approach the Civil Court in order to assert his right.
10. Police authorities are not the appropriate authority to find out whether petitioner has right over the common passage in question or not.
11. In aforesaid scenario this Court is not inclined to pass order in this writ petition.
12. Hence, writ petition stands dismissed.
13. However, police authorities are directed to maintain peace and tranquility at the locale.
14. Urgent photostat certified copy of the order, if applied for, be given to the parties upon usual undertakings.

(SAUGATA BHATTACHARYYA, J.)