

Ct.No.1 D/L 08.04.2026
27

Saikat
Mukherjee

MAT/515/2026
with
IA No:CAN/1/2026

MD. SAMIR HOSSAIN MOLLA
VS.
STATE OF WEST BENGAL AND ORS.

Mr. Nitai Ch. Saha, Adv.
Mr. Prosenjit Mukherjee, Adv.
Mr. Abhijit Ch. Majumder, Adv.
Ms. Nisha Agarwal, Adv.

...For the Appellant

Mr. Jayanta Samanta, Jr. Govt. Adv.
Ms. Indumouli Banerjee, Adv.

...For the State

Mr. Ayan Banerjee, Adv.
Mr. Dhiman Banerjee, Adv.

...For the Respondent
Nos.6&7

Dictated by **Sujoy Paul, CJ.**

1. Parties are represented through their respective learned counsel.
2. With the consent, finally heard.
3. This intra-court appeal takes exception to the order dated 12th March, 2026, passed in WPA No.5771 of 2026 whereby writ petition filed by the present appellant has been dismissed.

- 4.** Shorn of unnecessary details, the relevant facts are that appellant/plaintiff filed a civil suit being T.S. No.200 of 2026 wherein by order dated 9th February, 2026, the learned trial court granted injunction in favour of the appellant by restraining the Defendant Nos.1 and 2 from disturbing the peaceful possession of the plaintiff over the suit property and from encroaching upon the suit land and/or raising any construction and/or changing nature and character of suit property as on 9th February, 2026. On 13th February, 2026, the learned trial court further decided an application preferred under section 151 of CPC by the appellant/plaintiff and directed the Officer-in-Charge, Maheshtala Police Station to ensure a strict compliance with the order dated 9th February, 2026, prevent further construction, conduct local enquiry and submit a report before this court.
- 5.** The principal argument of learned counsel for the appellant as projected in the prayer clause of the writ petition is to ensure

protection which was given by learned trial court by way of aforesaid injunction orders. Accordingly, a suitable police action was prayed for.

6. The learned counsel for the appellant submits that learned Single Judge has erred in rejecting the writ petition. Instead, the learned Single Judge in the light of judgment of Supreme Court in ***P.R. Murlidhan and Others vs. Swami Dharmananda Theertha Padar and Others*** reported in ***(2006) 4 SCC 501***, ought to have issued directions for providing adequate police protection. For the same argument, an interim order of this court dated 5th June, 2014, passed in *W.P. No.9517(W) of 2014 (Nitai Chandra Sarkar & Ors. vs. The State of W.B.)* was relied upon by further contending that said protection was granted by learned Single Judge and same was maintained in intra-court appeal in *MAT No.1714 of 2014* by order dated 30th October, 2014, *(Shib Kumar Sarkar & Ors. vs. Nitai Kumar Sarkar*

& Ors.). Thus, it is prayed that the necessary directions be issued to the police authorities.

7. Learned counsel for the private respondent and State supported the impugned order. Shri Banerjee, learned counsel for private respondent, submits that Dag Nos.1131/1409 is not scheduled land in the Title Suit No.200 of 2026 instituted by appellant/plaintiff.

8. No other point is pressed by learned counsel for the parties.

9. We have heard the parties at length and perused the record.

10. The learned trial court in T.S. No.200 of 2026 passed the injunction order dated February 9, 2026 and February 13, 2026. The main grievance of the appellant as projected is that the direction contained in the order dated 13th February, 2026, in T.S. No. 200 of 2026 has not been translated into reality and it is a case of police inaction for providing protection, thus, the writ petition is maintainable.

11. Before dealing with this contention, it is apposite to note that in ***P.R. Murlidhan (supra)*** in Para-18 the Apex Court in clear words opined that High Court should have normally directed the writ petitioner to have his rights adjudicated upon in an appropriate suit in civil court. In the said case, it is not evident that the petitioner therein was enjoying an injunction order from the appropriate civil court and in the event of any breach of injunction/interim order, he apprised the civil court by filing appropriate application regarding such breach and for seeking strict implementation of the order.
12. On a specific query from the Bench, learned counsel for the appellant/plaintiff fairly admitted that he has not apprised the learned trial court by filing appropriate application that its orders aforesaid are breached.
13. Interestingly in ***P.R. Murlidhan (supra)*** the said situation was not there. There is a difference of decision between Para-14, 18

and 19 in the judgment of ***P.R. Murlidhan*** (*supra*).

14. Similarly, a careful reading of order dated 5th June, 2014, passed in *Nitai Chandra Sarkar (supra)* shows that the injunction order prevailing therein was reproduced. In the said injunction order, there was no direction to the police authorities to provide protection whereas in the instant case, plaintiff could obtain such order of police protection from the trial court. Thus, the facts are distinguishable.

15. If injunction order is breached the trial courts are not powerless. The CPC contains relevant provisions on the strength of which injunction order can be enforced in strict way. The appellant/plaintiff admittedly did not inform the trial court that injunction order has been breached. If appellant would have filed appropriate application before trial court informing breach of direction, and still trial court failed to take necessary steps and pass appropriate orders, perhaps petitioner would have a case to approach this court in

Article 227 jurisdiction. Thus, we find no reason to interfere in this matter. The appropriate remedy for the appellant is to approach the civil court complaining breach of injunction by filing appropriate application.

16. With the aforesaid observation, the intra-court appeal is dismissed.

17. With the dismissal of this appeal, connecting application being CAN 1 of 2026 is also dismissed.

18. No order as to costs.

(SUJOY PAUL, CJ.)

(PARTHA SARATHI SEN, J.)