

18.05.2026
SL No.16
Court No.12
(gc)

**MAT 840 of 2026
CAN 1 of 2026**

**Jogmaya Mahila Sarbojanin
Durgotsav Committee & Anr.
Vs.
Jadabendra Nath Roy & Ors.**

Mr. Jayanta Samanta,
Mrs. Karunamoyee Samanta,
Mr. Sujoy Paul

...for the Appellants.

Mr. Sattwik Bhattacharyya,
Mr. Aashutosh Bhattacharyya

...for the Private Respondent.

Mr. Swapan Kr. Mazumdar,
Mr. Saptarshi Mazumdar

...for the Nabadwip Municipality.

1. The appeal has been filed by the respondent no. 10 and 11 in the writ petition, being WPA 22083 of 2024.
2. The appellants are aggrieved by the order dated March 23, 2026. By the order impugned, the learned Court directed the municipality to ensure that the ingress and egress of the petitioner to his residence must not be interfered with and the iron gate which has been installed by the respondent no.11, shall be removed after the Annapurna Puja.
3. The appellants claim title over the property. The writ petitioner also claims title over the property. The appellants allege that, the dispute is private in nature. The gate has

been constructed on the appellants' land in order to safeguard the property.

4. The learned Advocate for the writ petitioner, on the other hand, submits that not a single document could be placed by the appellants indicating their right, title and interest over the property in question. The writ petitioner has absolute right over the property and can always seek free ingress and egress to his land. The appellants had actually blocked his ingress and egress, which gave rise to the writ petition. According to the writ petitioner, the municipal authorities were approached, but they did not take steps. Alleging such failure on the part of the municipal authorities, the writ petition was filed.
5. Learned Advocate for the Municipality submits that the dispute is between the two private parties. The gate has not been installed by the municipality. The issue of encroachment and obstruction of easementary right cannot be decided by the municipality.
6. We are in agreement with the submissions made by the appellants as also the municipality. The prayers in the writ petition appear to be beyond the jurisdiction of the writ court and such prayers can only be made in a civil suit. The first prayer is that the

writ court should ensure through the municipality that, the rights of the writ petitioner with regard to the Ejmali Rasta (Path) and Homestead land (Uthan), etc. are neither infringed nor obstructed nor encroached upon by the respondent nos.10 and 11 (private parties).

7. In my view, just by making the municipality a party and making an allegation that the municipality did not take steps despite the complaint of the writ petitioner, a writ petition of such nature cannot be maintained. The proper course of action for the writ petitioner ought to have been to file a civil suit with similar prayers or additional prayers in order to protect his alleged right, title, interest, possession and enjoyment of the property in question including the Path, Uthan, etc.
8. Under such circumstances, the appeal is allowed. The order impugned is set aside.
9. Liberty is granted to the writ petitioner to take steps in accordance with law, before the appropriate forum.
10. Accordingly, the appeal and the connected application are disposed of.
11. There shall be no order as to costs.

12. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)