

14.01.2026
(D/L-11)
Ct. No.4
(B.K.N.)

F.M.A. 952 of 2023
With
CAN 2 of 2023
Sukumar Gorai & Anr.
Vs.
Chitta Panja & Ors.

Mr. Soumyajit Das Mahapatra,
Ms. Madhurai Sinha,
Ms. Upasana Banerjee

...for the Appellants

Mr. Shyamal Roy

...for the Respondent No. 1

1. Heard the learned advocate for the appellants and the learned advocate representing writ petitioners/respondents.
2. The writ petitioners approached the Writ Court complaining that he along with his brother (respondent in the Writ Court) purchased the property. After purchase both were enjoying their respective shares, which was interfered with by the respondents. He alleged police inaction on the complaints lodged against the respondent brother. The Writ Court was of the view that the petitioner should avail remedies under Section 156(3) of the Cr.P.C. corresponding to Section 175(3) of the B.N.S.S. The writ petitioner till date has not availed the remedies under Section 156(3) of the Cr.P.C.

3. The learned advocate for the appellants submits that when the Writ Court refused to exercise jurisdiction and was of the view that the petitioner was required to avail remedies under Section 156(3) of the Cr.P.C. there was no occasion to pass a direction in the following terms:

“3. Anandapore Police Station, Paschim Medinipur shall, however, ensure that the private respondents do not disturb the petitioner while opening of his shop room.”

4. We find force in such submission that the dispute between the two brothers relating to possession could not be looked into in a writ proceeding as it was for the writ petitioner to avail appropriate civil remedies. Insofar as the police inaction is concerned we are informed that till date the petitioner has not availed even the remedy under Section 156(3) of the Cr.P.C. in terms of the order of the Hon’ble Single Judge in the writ proceeding.
5. Under such circumstances we are of the view that the writ petition be disposed of reserving the writ petitioners’ right to avail remedy under Section 156(3) Cr.P.C. However, we are not in agreement with the directions of the learned Single Judge, extracted above. The order of the Writ Court insofar as the above noted direction is concerned is set aside.
6. The appeal is allowed in these terms. Pending application is also disposed of.

7. Urgent Photostat Certified copy of this order, if applied for, be supplied to the parties upon compliance with all necessary formalities.

(Madhuresh Prasad, J.)

(Prasenjit Biswas, J.)