

Ct.No.1 M/L 05.01.2026
48

Saikat
Mukherjee

FMA/1461/2025
with
IA NO: CAN/1/2025
with
CAN/2/2025

AJIJUL GAZI
VS
STATE OF WEST BENGAL AND ORS.

Mr. Anirban Mitra, Adv.
Mr. Amit Halder, Adv.
Mr. Amit Roy, Adv.

...For the Appellant

Mr. Jayanta Samanta, Jr. Govt. Adv.
Mr. Koustav Bhattacharya, Adv.

...For the Respondent State

Mr. Mohinoor Rahaman, Adv.
Ms. Iqra Rahaman, Adv.

...For the Private Respondents

Per, **Sujoy Paul, ACJ.**:-

1. Parties are represented through their respective learned counsel.

In Re: CAN 2 of 2025

2. CAN 2 of 2025 is taken up.

3. Shri Mitra, learned counsel for the applicant has not pressed the said CAN.

4. Accordingly, **CAN 2 of 2025** is **dismissed as withdrawn.**

In Re: FMA 1461 of 2025

5. The exception against the report filed by Officer-in-Charge, Basirhat Police Station, is taken on record.

6. With the consent, parties are finally heard.

7. Learned counsel for the appellant submits that the principal reason for approaching the learned Single Judge in WPA No.14921 of 2025 is for passing appropriate direction to the police authorities to implement the injunction order passed by civil court dated 23rd May, 2025 and 9th June, 2025 in Misc. Case No.29 of 2025.

8. Learned Single Judge in the impugned order recorded following observations:-

“Be that as it may, since the civil court is already in seisin of the issues, the police authorities have hardly any role to extend aid and assistance to any of the parties except for continuing their surveillance and the police authorities would act on the order of the civil court after final determination of rights.”

9. The underlined portion is highlighted to contend that the prayer of the writ petitioner was to take appropriate action by police authorities for not implementing the interim order passed by the civil court. However, the observation suggests as if the police authority can act only when final determination takes place in the said civil suit. To this extent, modification is required so that the order of civil court can be implemented in letter and spirit.

10. Learned counsel for the private respondent opposed the same and contended that in the civil suit filed by present appellant there was suppression of fact and this will be brought to the notice of learned civil court.

11. We have heard the parties.

12. On a specific query from the Bench, learned counsel for private respondent fairly admitted that said interim order of trial court dated 9th June, 2025, filed in Misc. Case No.29 of 2025 is still existing and has not been vacated, modified or annulled. An appeal against that order is pending consideration.

13. In our opinion, we are not making any observation about legality, validity and propriety of said interim order dated 9th June, 2025. The Appellate Court is best suited to decide its validity.

14. However, the grievance put forth by Shri Mitra has substance that if there exists an injunction and direction to the police authorities to act in a particular manner, it was not proper for learned Single Judge to observe that police authority would act on the order of civil court after final determination of rights. To this extent, interference, in our opinion, is warranted.

15. Resultantly, the observations ‘...and the police authorities would act on the order of the civil court after final determination of rights’ are set aside and substituted by the finding that police authorities would act in accordance with law keeping in view the order dated 9th June, 2025, passed in Misc. Case No.29 of 2025 by the civil judge, senior division, Basirhat, North 24 Parganas.

16. With aforesaid observation and modification and without expressing any opinion on merits, the **intra-court appeal** is **disposed of**.

17. Therefore, with the dismissal of intra-court appeal, **CAN 1 of 2025** is also **disposed of**.

18. Urgent Photostat certified copy of this order, if applied for, be given to the parties, on priority basis, upon compliance of all necessary formalities.

(SUJOY PAUL, ACJ.)

(PARTHA SARATHI SEN, J.)