Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present:
THE HON'BLE JUSTICE SAUGATA BHATTACHARYYA

WPA 24894 of 2026

SOUMEN MUKHERJEE & ORS.
VS.
STATE OF WEST BENGAL & ORS.

For the petitioners	**:**	**Mr. Sambhunath De,**
		Mr. Samrat Chakraborty.
For the State	**:**	**Mr. Manju Agrwal,**
		Mr. Madhu Jana,
		Ms. Puja Sarkar.
For the Respondent		
Nos. 6 to 11	**:**	**Mr. Ayan Banerjee,**
		Ms. Debasree Dhamali,
		Ms. Riya Ghosh,
		Ms. Debolina Ghosh.
Heard on	**:**	**23.11.2026**
Judgment on	**:**	**23.11.2026**

SAUGATA BHATTACHARYYA, J:

1. By presenting this writ petition petitioners have prayed for direction upon the concerned police authorities to take steps which will permit the petitioners to use the land in question on the strength of judgment and decree dated 19th March, 2010. It is contended on behalf of petitioners that said judgment dated 19th March, 2010 passed on Title Suit No. 62/1971 was assailed by the defendants by preferring Title Appeal No. 105/2010 and same was not interfered with by the First Appellate Court in its order dated 12th July, 2022. Second appeal was preferred by the defendants in connection with Title Suit No. 62/1971 which was finally disposed of vide judgment dated 27th February, 2026 by a Coordinate Bench affirming orders passed by learned trial court and first appellate court. It is submitted on behalf of petitioners since their right in connection with suit land in question is crystallized after disposal of second appeal vide judgment dated 27th February, 2026 delivered by the Coordinate Bench, concerned police authorities may be directed to take steps which will permit the petitioners to enjoy peaceful possession over the land in question.

2. Respondent nos. 6 to 11 are represented by Mr. Banerjee, Learned Advocate who has submitted that vide judgment and decree dated 19th March, 2010 for a limited purpose plaintiffs

were permitted to enjoy right over the suit land in question and unbridled right is not conferred on the plaintiffs vide said judgment and decree dated 19th March, 2010. It is further submitted that case was made out before the learned trial court on behalf of defendants therein that they were having right of adverse possession and there was no ostensible observation made by the court requiring eviction of defendants from the land in question. It is further contended that even for eviction of trespasser proceeding is required to be initiated and there was no direction for eviction of defendants in the suit. Sum and substance of submission made on behalf of the private respondents is that there is a club room subsisting on the land of the petitioners which ought not to be disturbed.

3. Mrs. Agarwal, learned additional government pleader representing State respondents submits that once judgment and decree passed by the learned trial court on 19th March, 2010 was not interfered with by the First Appellate Court and by the Coordinate Bench while disposing of appeals preferred by the defendants in the suit, right of the plaintiffs is crystallized based on said judgment and decree dated 19th March, 2010.

4. Predecessor-in-interest of present petitioners filed Title Suit No. 62/1971 which was decreed vide judgment and decree dated 19th

March, 2010. Relevant part of the judgment and decree dated 19th March, 2010 is quoted below:-

"*that the suit be and the same is allowed on contest but with cost. Plaintiff do get a decree of declaration that the defendant/club or its member has got no title in the suit property or to use the same as playground or to claim any sort of easement and a decree of permanent injunction restraining the defendant/club or its members from making a pucca boundary wall or fencing around the land or to use the land as playground or to make any construction in the suit land. Plaintiff also do get a decree of mandatory injunction directing the defendants to remove the goal post or sign board, if any"*.

5. A title appeal was preferred by the defendants which was dismissed vide order dated 12th July, 2022. Subsequently, second appeal was preferred and same was disposed of by a Coordinate Bench without interfering with the impugned judgment and decree dated 19th March, 2010. After disposal/dismissal of title appeal and second appeal questioning judgment and decree dated 19th March, 2010 it needs to be concluded that the said judgment and decree dated 19th March, 2010 stands as on date wherein it was observed by the learned trial court that the defendant club or its members do not have title in the suit property or to use the same as playground or to claim any sort of easement and at the same

time decree of permanent injunction was awarded in favour of plaintiff in the suit thereby restraining the defendant club or its members from making any pucca boundary wall or fencing around the land or to use the land as playground or to make any construction on the suit land.

6. An effort was made on behalf of private respondents to demonstrate that though right, title and interest of defendant club was not declared in connection with suit land but there was no direction to evict the defendant club from the suit land in question keeping in view of a case of adverse possession was made out before the trial court. Such objection raised on behalf of defendant club pales into insignificance since suit was finally decided in favour of predecessor-in-interest of present petitioners thereby permanently injuncting and restraining the defendant club and its members from making pucca boundary wall or any sort of structure on the suit land.

7. This Court is aware of restrictions in exercising writ jurisdiction under Article 226 of the Constitution of India while entertaining writ petition claiming police protection in view of orders passed by Civil Court. Reliance is placed on paragraph 19 of judgment of the Hon'ble Supreme Court reported in ***2006(4) SCC 501 P.R. Murlidharan & Ors. –Vs.- Swami Dharmananda Theertha Padar & Ors***. For better understanding of the restrictions in

entertaining writ petition seeking police help based on order passed by Civil Court, paragraph 19 is quoted below:-

"19. A writ for "police protection" so-called, has only a limited scope, as, when the Court is approached for protection of rights declared by a decree or by an order passed by a Civil Court. It cannot be extended to cases where rights have not been determined either finally by the civil court or, at least at an interlocutory stage in an unambiguous manner, and then too in furtherance of the decree or order".

8. It was observed by the Hon'ble Supreme Court in ***P. R. Murlidharan*** (supra) that a writ petition seeking police protection has a limited scope, as and when the Court is approached for protection of rights declared by decree or by an order passed by a civil court and order ought not be passed on such writ petition in cases where rights of the parties are not determined either finally by the civil court or at least at interlocutory stage in an unambiguous manner.

9. In the present case, this Court finds substance in the submission made on behalf of State respondents that there is no ambiguity in the judgment and decree dated 19th March, 2010 passed by the trial court while disposing of title suit which was not interfered with by the First Appellate Court and by the Coordinate Bench while disposing of appeals preferred by defendants. Therefore,

this Court has no hesitation in inferring that right of the parties is unequivocally determined while disposing of aforesaid title suit and learned Trial Court issued permanent injunction restraining defendant club and its members from making any structure on the suit land in question.

10. Hence, Officer-in-Charge, Chandernagore Police Station being respondent no. 5 is directed to protect right of the petitioners being successors-in-interest of the plaintiff in connection with suit land in question and not to permit private respondents being members of the defendant club and the said club to use the suit land in any manner taking note of the observations and directions as contained in judgment and decree dated 19th March, 2010.

11. The writ petition stands disposed of.

12. Urgent Photostat certified copy of this judgement, if applied for, be supplied to the parties upon compliance of all legal formalities.

(**SAUGATA BHATTACHARYYA, J.)**

Srimanta, A.R.(Ct.)