

Form No. J(2)
Item No. DL/5
ARPAN – A.R. (CT)

In The High Court at Calcutta
CONSTITUTIONAL WRIT JURISDICTION
(APPELLATE SIDE)

W.P.A. NO. 23367 OF 2025
WITH
CAN 1 OF 2026

TIMIR BARAN HATAI
Vs.
THE STATE OF WEST BENGAL AND OTHERS
.....

BEFORE: THE HON'BLE JUSTICE SAUGATA BHATTACHARYYA

FOR THE PETITIONER	: Mr. Subhojit Seal, Adv. Mr. Soumya Khan, Adv.
FOR THE STATE	: Mr. Partha Chakraborty, Adv. Ms. Sneha Chatterjee, Adv.
FOR THE RESPONDENT NOS.5 & 6	: Mr. Anirban Mitra, Adv. Mr. Amit Halder, Adv. Mr. Amit Roy, Adv. Mrs. Madhumita Sadhukhan, Adv.
FOR THE RESPONDENT NOS.7-9	: Mr. Iftekar Munshi, Adv.
HEARING CONCLUDED ON	: 23.06.2026
JUDGMENT ON	: 23.06.2026

SAUGATA BHATTACHARYYA, J.:

1. Matter is heard in presence of the learned advocates representing the petitioner, State respondents and private respondents.

2. Pursuant to the order of the Hon'ble Division Bench dated 3rd December, 2025 passed on an *intra-court* appeal being *MAT 1855 of 2025*, affidavits are exchanged by the parties and same are taken on record.
3. Present writ petition was filed, *inter alia*, praying for following reliefs:

“b) Issue a Writ of and/or in the nature of Mandamus commanding to the respondents police authorities and each of them and/or its men and agents to act as per law and to forthwith take due steps against the illegal criminal activities of the private respondent no.5 & 6 and their men, agent and associates;

c) Issue a Writ of and/or in the nature of Mandamus commanding to the respondents police authorities and each of them and/or its men and agents to act as per law and to forthwith take due steps to remove the illegal occupation and/or criminal trespass by the private respondent no.5 and 6 and their men, agent and associates into the subjected property of the petitioner;

d) Issue a Writ of and/or in the nature of Mandamus commanding to the respondents police authorities and each of them and/or its men and agents to act as per law and to forthwith take due steps to prevent all sort of threats against the petitioner posing by the the (sic) private respondent no.5 and 6 and their men, agent and associates;

e) Issue a Writ of and/or in the nature of Prohibition commanding to the respondents police authorities and each of them and/or its men and agents from giving any further indulgence to the organized hooliganism of the private respondent nos.5 and 6 and their men, agent and associates, in any manner whatsoever;

f) Issue a Writ of and/or in the nature of Certiorari commanding to the respondent police authorities and each of them and/or its men and agents to produce and transmit all the records and the proceedings pertaining to the instant

case, so that upon perusal of each of those same, this Hon'ble Court may also administer conscionable justice to the parties herein;"

4. Learned advocates representing the petitioner being the Developer and respondent nos.7 to 9 being land owners have jointly submitted that respondent nos.5 & 6 illegally trespassed into the premises in question of the petitioner requiring stern action taking note of the complaint lodged by the petitioner before the Burtolla Police Station, Kolkata which would prevent trespassers from entering into the premises of the petitioner.
5. Since based on the complaint lodged by the petitioner criminal prosecution being Burtolla P.S. Case No.156 dated 24th September, 2025 was initiated under certain provisions of Bharatiya Nyaya Sanhita, 2023, prayer is also made in the writ petition for directing the concerned police authorities to take steps, in accordance with law, which would prevent respondent nos.5 & 6 to be involved in any criminal activities at the premises in question.
6. Learned advocate representing the petitioner has also contended that respondent nos.5 & 6 are trespassers who have no right to use any part of the premises in question and they are required to be prevented from using the premises on taking steps by the concerned police authorities in connection with the aforesaid criminal prosecution.
7. Learned advocate representing the respondent nos.7 to 9 has also made submissions in support of the case made out in this writ petition that respondent nos.5 & 6 are trespassers having no right, title and interest to use the premises in question.
8. While considering the issue involved in this writ petition, Court finds it fit to take into consideration the observation made by the Hon'ble Division Bench in the judgment dated 3rd December, 2025 while

disposing of intra-court appeal being ***MAT 1855 of 2025 (Uttar Kolkata Sanhati Sporting Club vs. Timir Baran Hatai and Others)*** preferred by respondent no.5 on being dissatisfied with the order passed by the co-ordinate Bench on the writ petition on 25th September, 2025 directing the concerned police authority to take steps for preventing the respondent no.5 to trespass into the premises in question.

9. Relevant part of the judgment dated 3rd December, 2025 passed in ***MAT 1855 of 2025*** runs *infra*:

“20. The question as to whether the present appellants are at all trespassers or not in respect of the said premises is a disputed questions of fact which requires due adjudication. We have already noticed that the learned Single Bench while passing the impugned order directed the police authorities to prevent the access of any trespasser into the said premises even without calling for affidavits.

21. It thus, appears to us that in the event the impugned order is allowed to stand, the same may affect the right, title and interest of the appellants in the said premises, if there be any.

22. In view of the discussion made hereinabove we thus find sufficient merit in the instant appeal.

23. The instant appeal thus succeeds and is hereby allowed.”

10. From the aforesaid observations made by the Hon’ble Division Bench, it can be inferred that whether anybody is a trespasser in connection with the premises in question or not is a disputed question of fact.
11. Observations made by the co-ordinate Bench while passing the order dated 25th September, 2025 also affect right, title and interest of the respondent no.5 in connection with the said premises. The co-ordinate Bench *vide* order dated 25th September, 2025 directed the police

authorities to ensure that trespassers would not be allowed to use the property in question and if there is any violation of law, it would be incumbent upon the police authorities to ensure that peace and tranquillity is maintained.

12. Whether respondent nos.5 & 6 are trespassers or not is a disputed question of fact which ought not to be decided by the Writ Court.
13. Hence, petitioner is required to approach Civil Court for adjudication of the issue involved herein in order to ensure right of the petitioner in connection with the property in question and to evict respondent nos.5 & 6.
14. However, in view of pendency of the criminal prosecution being Burtolla P.S. Case No.156 dated 24th September, 2025, concerned police authorities are directed to maintain peace and tranquillity at the premises and to see that no untoward incident takes place.
15. Writ petition stands disposed of.
16. Application being CAN 1 of 2026 also stands disposed of in view of the order passed.
17. Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(SAUGATA BHATTACHARYYA, J.)