

Form No.J(2)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present :

The Hon'ble Justice Raja Basu Chowdhury

WPA 29414 of 2025

**Dibyendu Mondal
versus
Bardhaman Municipality & Ors.**

For the petitioner : Mr. Tanoy Chakraborty,
Mr. Chhandak Dutta.

For the Municipality : Mr. Subhasis Bandyopadhyay

Heard on : 12.02.2026

Judgment on : 12.02.2026

Raja Basu Chowdhury, J (Oral):

1. The compliance report dated 11th February, 2026 filed by the Burdwan Municipality in Court today is taken on record and the report dated 3rd February, 2026 signed by the Chairman of the Municipality filed in Court today is also taken on record.
2. The present writ petition has been filed, *inter alia*, for a direction to in effect quash an order dated 24th June, 2025, whereby the petitioner's shop room at holding No.34 G.T. Road Mahalla, under Ward No.7 had been sealed. When the matter came up for consideration on 10th February, 2026, this Court was, *inter alia*, pleased to pass the following order;

“This matter has a checkered history. In the instant case, records would reveal that the petitioner herein had suffered a decree for eviction in the title suit No. 185 of 2019. Though an appeal was filed such appeal was also dismissed. Following the above, a title execution case was lodged being case No. 17 of 2024. By an order dated 1st August, 2025 the Civil Judge (Junior Division), 2nd Court, Bardhaman while allowing the application under Section 151 of the Code directed the bailiff of the Court to break open the padlock of the decretal property and recover possession with police help. Being aggrieved, the petitioner had approached this Court in the revisional jurisdiction which was registered as CO 2982 of 2025. By an order dated 14th August, 2025, a co ordinate Bench of this Court had conditionally stayed the operation of the order impugned as well as further proceedings in title execution case No. 17 of 2024 pending before the learned Civil Judge (Junior Division), 2nd Court, Burdhaman till 22nd September, 2025 or until further order whichever is earlier subject to the conditions that the petitioner deposits the sum of Rs., 30,000/- before the executing Court on or before 22nd August, 2025. According to the petitioner, the aforesaid conditional order has been complied with and the petitioner had already deposited the above sum. Though, further directions have been passed for continuance of the order, in the meantime, the petitioner has already filed a second appeal being SAT No. 218 of 2025. The appeal is yet to be taken up for consideration under Order XLI Rule XI of the Code of Civil Procedure. In the interregnum, however, the municipality has all on a sudden sealed the petitioner’s shop room by pasting a notice dated 24th June, 2025. The said notice and the sealing the petitioner’s shop room form subject matter of challenge in the present writ petition.

2. The private respondent is represented. According to him, since the decree has been passed, the petitioner cannot be permitted to continue in possession or carry on business therefrom.

3. Learned advocate for the municipality would submit that it is on the basis of the complaint made by the private respondent that the shop room was sealed. The learned advocate for the municipality, however, could not produce the complaint lodged by the private respondent today.

4. Having heard the learned advocates appearing for the respective parties and noting that the petitioner had been carrying on business at the property in question for the last 30 years and from time to time, the municipality has issued certificate of enlistment and there is a valid certificate of enlistment standing in the name of the petitioner, and noting the possession of the petitioner, I am of the view that the municipality cannot be transformed to an office of the bailiff so as to act at the instance of the private respondent and recover the possession especially when a second appeal is pending. Accordingly, I direct the municipality to remove the seal and report before this Court when the matter is taken up next.

5. List this matter for further consideration on 12th February, 2026, when the municipality must produce the complaint lodged by the private respondent.

6. Since, learned advocate for the municipality is present, the petitioner's advocate-on-record is granted liberty to communicate the gist of the order to the concerned municipality."

3. Pursuant to the aforesaid order, the municipality has removed the seal and has filed a report dated 11th February, 2026. The learned advocate for the municipality would in response submit

that the petitioner has requisite certificate of enlistment for carrying on the business from the aforesaid shop room.

4. The learned advocate representing the private respondent would, however, submit that the property which has been let out in favour of the petitioner is at holding no.34, however the certificate of enlistment pertains to a different holding no. being no.99, G.T. Road Mahalla, under Ward No.7 of Burdwan Municipality.
5. Having heard the learned advocates for the respective parties and having considered the materials on record and the Permanent Certificate of Enlistment as appearing at page 32 of the writ petition, I find that the Certificate of Enlistment is in respect of holding no.99, G.T. Road of Burdwan Municipality, the learned advocates for the petitioner and the municipality while responding to a query of the Court would jointly submit that the holding no.99, G.T. Road has since been re-numbered as holding no. being 34, G.T. Road.
6. The learned advocate for the private respondent by placing before this Court an RTI reply dated 11th November, 2024 would like to contradict the aforesaid fact and claim that the petitioner is running the business under the name and style of “MONDAL TRADERS” from holding no.99 and the latest Certificate of Enlistment issued in the name of the petitioner pertains to

holding no.99 and not holding no.34 as such the petitioner cannot be permitted to operate from holding no.34.

7. From the report disclosed by the municipality dated 3rd February, 2026, it transpires that the holding no. 99 G.T. Road Mahalla under Ward no.7 was changed and re-numbered as 34 G.T. Road Mahalla, Ward No.7 under Burdwan Municipality. The private respondent had after succeeding in the Title Suit as aforesaid had made a complaint and had called upon the municipality to seal the shop room. The municipality has produced the complaint letters dated 30th May, 2025, 9th July, 2025 and October 2025 wherefrom, it transpires that the private respondent had sought for help from the municipality to execute the Civil Court's order and had also raised objection against change of holding number.
8. Though the learned advocate for the private respondent by placing before this Court a communication dated 11th November, 2025 issued by the Burdwan Municipality under RTI Act had attempted to contradict the same, however, having regard to the report filed in Court today, I am of the view that there is no scope to place reliance on RTI documents. Be that as it may as noted in the order dated 10th February, 2026, the decree passed by the Civil Court could not have authorized the Chairman to seal the petitioner's property as the office of the municipality cannot be transformed to that of a bailiff.

9. Since, the seal from the shop room has now been removed, I am of the view that nothing survives in the writ petition and the same is accordingly disposed of.
10. The above order shall, however, not interfere with the other rights of the private respondent from agitating the same before appropriate forum in accordance with law.

Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

(Raja Basu Chowdhury, J.)

**Pritam
A.R. (Court)**