

30-05-2025
Item No.10
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction
Appellate Side

WPA No.12172 of 2025

Debasish Ganguly & Ors.

-vs-

The State of West Bengal & Ors.

Mr. Sumitava Chakraborty
Ms. Bratati Pramanick ...for the petitioners

Mr. Rabindra Nath Pal
Mr. Subhabrata Das ...for the State

The present writ petition has been filed primarily seeking enforcement of the order dated April 28, 2025, passed by the Civil Judge (Senior Division), 5th Court, Alipore, in Title Suit No. 506 of 2025.

The petitioners submit that the civil court is closed due to the ongoing summer vacation. Although, by an interim order, the defendants in that suit were restrained from causing any disturbance or obstruction to the peaceful possession or enjoyment of the suit property by the plaintiffs till June 5, 2025, the private respondents, taking advantage of the court's closure, are now preventing the petitioners from constructing a boundary wall in violation of the interim order.

The petitioners further submit that, in view of the Civil Court being closed for the summer vacation, this Court should intervene in the matter and pass an appropriate order.

Learned counsel appearing for the State vehemently opposes the prayer of the petitioners. He submits that a writ court cannot be converted into an

executing court for enforcement of an order passed by a competent civil court of law. In support of his submission, he has relied upon the decision, reported in (1991) 4 SCC 379 (*Ghan Shyam Das Gupta & Anr. v. Anant Kumar Sinha & Ors.*).

Having heard the respective parties and perused the materials on record, I am of the opinion that the High Court should not exercise its power of judicial review where an efficacious alternative remedy exists. The civil court is a competent forum to address any violation of the interim order by a party to the suit. Therefore, citing the reason that the civil court is not functioning due to the ongoing summer vacation, a writ court cannot be converted into a forum to enforce an order passed by a competent civil court of law. Generally, a court should not overstep its well-defined limits.

Therefore, applying the proposition laid down in the judgment in the case of *Ghan Shyam Das Gupta* (supra), I am of the view that no interference in this writ petition is warranted.

Accordingly, the writ petition is dismissed. There shall be no order as to costs.

However, this order shall not preclude the petitioners from making an appropriate application before the competent forum in accordance with law.

The report filed by the State is taken on record.

All parties are directed to act on the server copy of this order, duly downloaded from the official website of this Court.

Certified copy of this order, if applied for shall be made available to the parties.

[Partha Sarathi Chatterjee, J]

