8
14.10.2026
Ct. No. 05
adeb

WPA 30089 of 2026

Upendra Roy
Vs.
The State of West Bengal & Ors.

Mr. Rajarshi Basu
Mr. Gourab Ghosh
...for the petitioner

Mr. D.N. Roy
Mr. Srijib Chakraborty
Mr. Sunny Nandy
...for the State

1. Affidavit of service filed on behalf of petitioner is taken on record.
2. Apart from filing affidavit of service tracking reports are filed showing service of notice upon respondent nos. 7 and 8. However, notice could not be served as it is submitted on behalf of petitioner, upon respondent nos. 6, 9 and 10.
3. Petitioner is aggrieved by arrangement made by respondent nos. 6 to 10 for organizing Durga Puja for the year 2026. It is submitted that Title Suit No. 59 of 2015 was instituted by petitioner in connection with which on 20th January, 2016 learned Civil Judge (Sr. Division), 3rd Court, Paschim Medinipur passed an *exparte ad interim* order of injunction thereby restraining defendants from disturbing peaceful possession of the plaintiff over the suit

property and defendants were also restrained from making construction of structure over the suit property. It is contended on behalf of petitioner that *exparte ad interim* order of injunction passed on 20th January, 2016 was extended from time to time as a result whereof respondent nos. 6 to 10 are not authorized to organize Durga Puja encroaching land of petitioner. In support of such contention reliance is also placed on order dated 18th September, 2024 passed by Civil Court on an application made on behalf of petitioner/plaintiff under Section 151 CPC. It is submitted that vide said order dated 18th September, 2024 concerned police authority was directed to comply with the order passed on 20th January, 2016 thereby restraining defendants from disturbing peaceful possession of the plaintiff over the suit property. It is contended that in spite of aforesaid orders passed by Civil Court respondent nos. 6 to 10 are violating those orders by organizing Durga Puja for the year 2026 encroaching petitioner's land.

4. State respondents are represented by Mr. Chakraborty, learned advocate who has filed a communication dated 13th October, 2026 of Officer-in-Charge, Garhbeta Police Station and

same is taken on record. Copy of said communication dated 13th October, 2026 is made over to learned advocate representing petitioner.

5. It is disclosed in the said communication filed on behalf of police authorities on enquiry it was found that for last 29 years Durga Puja is being organized at Nischintapur beside NH-60 and there is no demarcation of land by the appropriate authority.

6. Suit was instituted by petitioner claiming declaration of right, title and joint possession over the suit property. Title Suit No. 59 of 2015 is still pending and a case is made out on the basis of *exparte ad interim* order passed on 20th January, 2016 which according to petitioner was subsequently extended from time to time. Notwithstanding order passed on 18th September, 2024 by the Civil Court thereby directing concerned police authorities for compliance of orders passed in the aforesaid suit and restraining defendants from disturbing peaceful possession of plaintiff over the suit property it has been found from the communication dated 13th October, 2026 that uninterruptedly for a period of 29 years Durga Puja has been performed. If petitioner finds that orders passed by Civil Court are not being

complied with petitioner is required to approach Civil Court in pursuit of remedy. This Court cannot ignore purport of suit wherein prayer is made for declaration of right, title and joint possession of plaintiff over the property. If today accepting the contention raised on behalf of petitioner in this writ petition, Court directs the concerned police authorities to take steps for restraining private respondents from performing Durga Puja without proper demarcation of suit property/land in question in that event it will have a bearing on the pending proceeding before the Civil Court. Issues raised in the suit are required to be decided by Civil Court. Therefore, at this stage it would be improper to direct police authorities to take steps thereby restraining private respondents from organizing Durga Puja.

7. Hence, present writ petition stands dismissed.
8. However, it is made clear that order passed today shall not in any way create any hindrance in deciding the suit instituted by petitioner and petitioner shall be at liberty to approach Civil Court in pursuit of remedy, if it is found that his land is being encroached by respondents during pendency of suit.

9. Parties to act on server copy of this order duly downloaded from the official website of this Court.

(Saugata Bhattacharyya, J.)