

District : Purba Medinipur

In the High Court at Calcutta
Constitutional Writ Jurisdiction

(Appellate Side)

W.P.No. 23751 (W) of 2009.

In the matter of :

An application under Article 226
of the Constitution of India ;

-And-

In the matter of :

A writ in the nature of Mandamus /
Certiorari and an interim order
thereeto ;

-And-

In the matter of :

Article 300A of the Constitution
of India ;

-And-

In the matter of :

The Police Act, 1861 ;

Shri
Bhaskar Chandra Singh
+ 50000

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-And-

In the matter of :

The petitioner applied to the Police Authority to maintain law and order situation in the land and take appropriate steps against the miscreants under the provision of law ;

-And-

In the matter of :

The land at Mouza - Sarkamalpur,
J.L. No. 112, Khatlan No. 867,
Plot No. 821, Area .34 decimals out
of .34 decimals under the P.S.
Mahishadal, District - Purba
Medinipur ;

-And-

In the matter of :

The respondent ~~Qmk~~ the Secretary of the Mahishadal, Sporting Club is trying to encroach the land of the petitioner by force for construction of building in the land of the petitioner by illegal way ;

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-And-

In the matter of :

Due to inaction on the part of the
respondent Police authority the
Secretary of the said Club and its
members are very much desperate attitude
by occupying the land of the petitioner
for illegal construction of the Club
building ;

-And-

In the matter of :

Bhupal Prasad Garg,

Son of late Gopal Prasad Garg,

the Sebaht of the Sri Sri Madan Gopal

Jew of Vill. P.O. & P.S. Mahishadal,

District - Purba Midnapur.

...

... Petitioner

-Versus-

1. The State of West Bengal
service through the Secretary,

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Department of Home,
Writers' Buildings, Kolkata - 700001.

2. The Superintendent of Police,
Purba Medinipur, P.O. & P.S. Tamluk,
District - Purba Medinipur.

3. The Sub-Divisional Police Officer,
Haldia, P.O. & P.S. Durgachak,
District - Purba Midnapur.

4. The Officer-in-Charge,
Mahishadal Police Station,
District - Purba Medinipur.

5. The B.L. & L.R.O. Mahishadal,
P.O. & P.S. Mahishadal,
District - Purba Medinipur.

6. Tapan Mahapatra,
Son of Anil Mahapatra,
The Secretary, Mahishadal Sporting
Club, Village - Gaikamalpur,
P.O. & P.S. Mahishadal,
District - Purba Medinipur.

... .. Respondents.

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In The High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

Present :
The Hon'ble Mr Justice Jayanta Kumar Biswas

W.P. No. 23751 (W) of 2009
Bhupal Prosad Garg

v.
The State of West Bengal & Ors.

Mr Bhaskar Chandra Manna and Mr K. Sarkar, advocates, for the petitioner. Mr Satyabrata Majumdar, advocate, for the State. Mr Sallik Maity, advocate, for the sixth respondent.

Heard on: June 21, 2010.

Judgment on: June 21, 2010.

The Court:- The petitioner in this art.226 petition dated December 22, 2009 is seeking the following reliefs: a mandamus commanding the police to take steps against the miscreants; a mandamus commanding the sixth respondent, Tapan Mahapatra and his associates not to disturb the petitioner's possession of his lands; and a mandamus commanding the Block Land & Land Reforms Officer, Mahishadal to provide a Government Amin for measuring and demarcating his lands and the lands of the club.

If the sixth respondent and any member of the club committed any offence punishable under any criminal law of the land, and if the police, in spite of information, did not register an FIR, in my opinion, instead of approaching the High Court under art.226 the petitioner should have approached the Criminal Court with his complaint.

A mandamus cannot be issued directing a private party not to disturb the possession of any immovable property of another private party.

No mandamus can be issued directing the Block Land & Land Reforms Officer to provide a Government Amin for measuring and demarcating the lands of the club and the petitioner.

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No law entitled the petitioner to call upon the Block Land & Land Reforms Officer to provide a Government Amin for the purpose. He could seek an order issuing a commission only in a suit instituted before the Civil Court. He is not entitled to any relief from the Writ Court.

For these reasons, the petition is dismissed. No costs. Certified xerox.

Sd/- J. K. Biswas, J.
(Jayanta Kumar Biswas, J.)

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Certified to be a true copy
 [Signature]
 Assistant Registrar / Notary Public
 High Court, Appellate Division
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 (Act 107 of 1956)

