

IN THE HIGH COURT AT CALCUTTA
[CIRCUIT BENCH AT PORT BLAIR]

WPA/106/2025

Fanoos Begum

Vs.

The Chief Secretary and 05 Others

Mr. Gopala Binnu Kumar for the petitioner

Mr. V. D. Sivabalan
Mr. Arun S. Kumar ... for the respondent no.

Mrs. Anjili Nag, Sr. Adv.
Miss. Sohini Biswas ... for the respondent no.

February 24, 2026
[SR]
Item No.13

Writ petitioner assailed Order No. 2329 dated August 17, 2023 passed by the respondent no. 2.

Learned advocate appearing for the petitioner submits that, the issue of the measurement of survey nos. 35, 36, 37 & 38 stood concluded by a decision rendered in earlier round of litigation. He submits that, in a civil suit, filed by the predecessor-in-interest, being Title Suit No. 25 of 2012, Deputy Commissioner, South Andaman, submitted a report as to measurement which was accepted by the learned Trial Judge as recorded in order no. 177 dated April 25, 2022. He submits that, the issue as to the measurement of the plots cannot now be reopened by any forum.

Authorities as well as the private respondents are represented.

Learned Senior Advocate appearing for the private respondent submits that, in Title Suit No. 25 of 2012, an order

dated January 21, 2019 was passed restraining the Commissioner, namely Tehsildar, Port Blair to stop the commission work till further order of the Court. She submits that, subsequent to that order of injunction, the Tehsildar was not allowed to undertake the commission work. No further order authorizing the Tehsildar to undertake the commission work was passed by the learned Trial Judge. Consequently, all steps taken subsequent to the order dated January 21, 2019 are bad in law.

Predecessor-in-interest of the writ petitioner namely Niyaz Ali and Nafeez Begum filed a civil suit being Title Suit No. 25 of 2003 for declaration of title, recovery of possession and injunction. The plots involved in such title suit are plot nos. 35 and 36.

In such suit, an order dated January 21, 2019 was passed directing the Tehsildar to stop the commission work until further order of the Court.

Attention of the Court is not drawn to any order passed subsequent to January 21, 2019 allowing the Tehsildar to continue with the work of commission.

Tehsildar and Administration apparently undertook measurement exercises and passed orders. Such orders are subsequent to January 21, 2019.

At least two writ petitions were filed before this Court. Writ petitions directed measurements to be undertaken.

Issues in Title Suit No. 25 of 2003 are yet to be finally decided by the learned Trial Judge. One of the issues involved is

whether, the writ petitioner is entitled to claim title over 30 sq.mtrs. of land out of the total area of 4106 Sq.ft. standing under survey nos. 35 and 36 or not.

In my view, till such issue is finally decided by the Civil Court, exercises undertaken for measurement and reworking of the table top map, are of no consequence. In fact, such an exercise should be done in the Civil Suit which is pending between the parties.

There are disputes which are civil in nature between the private parties. Disputes relate to the immovable property involved in the suit. Till such time such disputes are settled by the learned Trial Judge, in the pending suit, interference by way of a writ petition is not called for.

In such circumstances, it would be in the interest of justice to grant the parties leave to adduce relevant evidence at the trial of the pending suit, if they so desire, with regard to the entire exercise of measurements done till date, in pursuant to orders of the writ Court or otherwise.

Till such time Title Suit No. 25 of 2012 is finally decided, no effect be given to any of the orders of measurement including the order impugned without express leave of the learned Judge before which, Title Suit No. 25 of 2012 is pending.

WPA/106/2025 is disposed of without any order as to costs.

(**Debangsu Basak, J.)**