Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side

The Hon'ble Justice Sabyasachi Bhattacharyya

And

The Hon'ble Justice Om Narayan Rai

MAT 106 of 2026
in
WPA 1902 of 2026
with
CAN 1 of 2026

Ambuja Realty Development Limited
Vs.
The Officer in charge of Excise, Bagdogra Circle, Darjeeling and Ors.

For the appellant	:	Mr. Arindam Mitra, Mr. Abhilash Mittal, Mr. Nigam Mittal, Advs.
For the State	:	Mr. Kunaljit Bhattacharjee, AGP, Ms. Esha Acharya, Adv.
Hearing concluded on	:	26.11.2026
Judgment on	:	26.11.2026

Sabyasachi Bhattacharyya, J:-

1. The present challenge has been preferred against an order whereby the learned Single Judge dismissed the writ petition of the appellant upon imposition of costs of Rs.1,00,000/-.

2. Learned counsel for the appellant argues that the appellant is the owner of the premises-in-question. On the premise of violation of excise laws, the premises were sealed by the respondent authorities. The appellant applied for opening of the premises by removal of padlock, which being refused, the appellant moved the Writ Court.

3. The learned Single Judge, while dismissing the writ petition, was pleased to record that the appellant had admittedly permitted Samrat Dutta of M/s. Suncity Tieup Pvt. Ltd. to use the space and although the appellant claimed that it had determined the relationship, there was nothing on record from the end of M/s. Suncity Tieup Pvt. Ltd. or Samrat Dutta confirming that they had made over possession in respect of the aforesaid space to the appellant. On such premise, the writ petition was dismissed.

4. Learned Additional Government Pleader, appearing on behalf of the respondent authorities, opposes the appeal and submits that in the absence of any eviction proceeding, the appellant could not have obtained an eviction order in effect against its lessee by dint of the writ petition.

5. Upon hearing learned counsel for the parties, we find that the learned Single Judge was justified in dismissing the writ petition inasmuch as the appellant, in the garb of taking over possession of the premises, could not have evicted its lessee without due process of law.

6. However, it transpires that the cost imposed was disproportionate with the conduct of the appellant in preferring the writ petition and was not warranted.

7. In such view of the matter, MAT 106 of 2026 is disposed of by modifying the impugned judgment dated September 3, 2026 passed in WPA 1902 of 2026 to the limited extent that the costs of Rs.1,00,000/- imposed thereby is waived.

8. The appellant shall be at liberty, if otherwise entitled to in law, to approach the appropriate forum for ventilation of its grievances. Consequentially, CAN 1 of 2026 is also disposed of.

9. There will be no order as to costs.

10. Urgent certified server copies of this judgment, if applied for, be issued to the parties upon compliance of due formalities.

(Sabyasachi Bhattacharyya, J.)

I agree

(Om Narayan Rai, J.)

Crt no. 7
Item no. 14
(SSS)