

Item No.11  
31.07.2024  
Court. No. 9  
GB

W.P.A. 5518 of 2024

Sri Arun Kumar Agarwal  
Vs.  
The State of West Bengal & Ors.

*Mr. Ayanava Bhattacharya,  
Mr. P.K. Gupta,  
Ms. Sofia Nesar*

*...for the Petitioners.*

*Mr. Amal Kumar Sen,  
Mr. Lal Mohan Basu*

*...for the State.*

1. Affidavit-of-service filed in Court today, is taken on record.
2. The writ petition cannot be entertained. The petitioner has already filed a suit, being Title Suit No.16448 of 2014, before the learned Civil Judge (Junior Division), 6<sup>th</sup> Court at Howrah for recovery of possession from persons allegedly running the Khatal.
3. Today, the petitioner is aggrieved by the inaction of the cattle licensing authority. From the report of the Sub-Assistant Engineer, Bally Municipality, signed on February 2, 2023, a coordinate Bench had held that a cow shed (Khatal) measuring about 10ft/10ft. existed on the premises. It was left open to the petitioner to approach the cattle licensing authority for taking appropriate steps for removal of the Khatal. The petitioner is aggrieved by the inaction of the authorities but did not take any steps.
4. It is an admitted position that a status quo with regard to the possession of the property which is the subject

matter of the suit, is pending. In the meantime, the petitioner seeks removal of the cow shed (Khatal), from the premises which the subject matter of the suit. If it is the petitioner's contention that the cow shed (Khatal), was constructed after the suit was filed, the petitioner has a remedy before the learned civil court.

5. In my opinion, the prayer for removal of the cow shed from the premises cannot be allowed as the prayer for recovery of possession in respect of the same premises, is pending before a civil court and a status quo order has been passed as submitted by the learned advocate for the petitioner. In and around about May, the petitioner is seeking eviction of the licensee from the premises in question during the pendency of the civil suit.
6. Accordingly, writ petition is disposed of without any orders.
7. The petitioner is granted liberty to approach the civil court with all his prayers. The prayer for removal of the cows which have allegedly been illegally kept in the premises, can also be made before the learned civil judge by filing proper application which shall be adjudicated on merits, upon contest.
8. However, there will be no order as to costs.
9. Parties are directed to act on the basis of the server copy of this order.

**(Shampa Sarkar, J.)**