

Court No. 8
27.08.2025
Item No.41
PA (Chamber)

WPA (P) No. 8 of 2023

**Abul Hamid Shekh and Ors.
VS
The State of West Bengal & Ors.**

Mr. Sankar Prashad Dalapati
Mr. Satyajit Mahata
...for the petitioner

Mr. Jahar Lal De
Mr. Rudranil De,
...for the State

Mr. G.F. Hossain
Mr. R.H. Khan
...for the Respondent No. 12 & 13

Mr. Sounak Bhattacharya
Ms. Bipasha Bhattacharyya
... for the Respondent No. 10 & 11

Dictated by Smita Das De, J.

1. Heard the learned counsel appearing on behalf of the petitioners and the respective parties.
2. The instant writ petition has been filed in the nature of public interest litigation by the petitioner praying inter alia for the following relief(s):-

“ a) A writ in the nature of mandamus directing the State respondents their men and agents to stop permanent construction over the schedule property measuring about 1.37 acres lying and situated under Mouza-Alipur, J.L. No.-101, Touzi No. 249, R.S. Khatian No.-374 & 659, corresponding to L.R. Khatian No. -108, R.S. &

L.R. Dag No.- 1792, Dist- South 24 Parganas, and protect the market locally known as Surjapurhat.

b) A writ in the nature of mandamus to directing the State Authorities more particularly the District Magistrate South 24 Paraganas, to take appropriate steps by which the local inhabitant and the villagers are continuing their day to day activities over the said market and no way they are restrain by the interference of the private respondents no. 11 to 14.

c) To constitute a High Power Committee to enquire the local and the committee will submit the report before This Hon'ble High Court as to whether; there is running the market more than 100 years and the market is destroying by the private respondents in connivance with the managing trustee and the Prodhan for their wrongful gain by which the economic stability of the local villagers and the surrounding area are hampered.

d) A writ in the nature of certiorari directing the respondents and/or their men agents or subordinates to transmit all relevant records pertaining to this case before this Hon'ble Court so that the conscionable justice may be administer after prizing the same.

e) Rule NISI in terms of prayer (a), (b), (c) and (d) as above.

f) Pass an interim order restraining the private respondents' to make any construction work changing the nature and character of the market (Hut) over the land measuring about 1.37 acres lying and situated under Mouza – Alipur, J.L. No.- 101, Touzi No-249, R.S. Khaitan No. 108, R.S. & L.R. Dag No. – 1792, Dist- South 24 Paraganas, till the disposal of this writ petition.

g) Cost incidental expenses of the writ petition.

h) Any such other or further order or orders, direction or directions as your Lordship may deem fit and proper.”

3. In the instant writ petition the petitioner being the local villagers are running a market on a land being of an area 1.37 acres lying and situated under Mouza-Alipur, JL NO. 101, Touzi No. 249, R.S.Khatian No. 374 and 659, corresponding to L.R. Khatian No. 108, R.S. and L.R. Dag No. 1792, South 24 Parganas which originally belonged to one Sailendranath Roy Chowdhury who created a trust and devoted the land in question in the name of “Shree Shree Anondo Moyee Thakurani” prior to 1920.

4. The market in question is locally known as Surjapurhat which was set up mainly for the benefit and economic development of the surrounding area of a temple named as “Shree Shree Anondo Moyee Thakurani”(hereinafter referred to as the said temple).

5. The main grievance of the petitioners are that since the land in question exclusively belongs to the deity, the private respondents are trying to utilize the said market Surjapurhat for their personal and fraudulent gain. As a result of which the existence of the market as well as the normal functioning of the Seba Puja of the deity has been put at stake.

The petitioners earn their daily bread and butter from the said land. Therefore being aggrieved by the action of the private respondents who are trying to grab the land by way of erecting illegal constructions, and changing the nature of the character of the said land of the market in question the petitioners had made representations to the concerned authorities for taking appropriate steps to restrain the private respondents from carrying out any form of illegal/unauthorised construction changing the nature and character of the land of the debutter property situated in the land in question.

6. Till date representation remained unconsidered by the authorities. Thus the instant PIL has been filed for appropriate orders for restraining the illegal construction by changing the user of the land in question.

7. The private respondents in course of hearing took up the issue of maintainability of the instant PIL. The learned counsel for the private respondents submits that the land in question is a property of a deity under a private charitable trust. It is also submitted that the petitioner has made an averment in paragraph 12 of the writ petition that the private respondents have illegally granted lease in favour of some other private respondent without obtaining any permission from the learned District Judge at Alipur, since the issue is civil in nature the dispute in question cannot be agitated by filing a PIL for redressal and also submits that the pradhan being the respondent No. 5 is also empowered under the statute to make an application before the District Magistrate and Collector for acquisition of the land for the use for public purposes and the same to be vested in the Gram Panchayet.

8. Admittedly the land in question is not a revenue/Government land. The land is a property of a deity under a private charitable trust. Thus, writ petition (PIL) is not maintainable. Even otherwise,

the argument of petitioner is that the villagers are using the said land of charitable trust for their marketing activities for several decades. This is purely a matter of evidence which can be proved before a Court of competent jurisdiction. The remedy (if any) lies under the Civil law. The PIL for these cumulative reasons is not maintainable.

9. Resultantly, the PIL is dismissed as not maintainable by reserving liberty to the petitioner to avail the remedy available to him under the law.

(SUJOY PAUL, J.)

(SMITA DAS DE, J.)