

Court No. 2

27.3.2025

(Item No. 77)

(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 2583 of 2025

Snehamoy Patar

VS

The State of West Bengal & Ors.

Mr. Kaushik Chandra Gupta

.... For the petitioner

Mr. K. J. Yusuf, Id. AGP

Mr. Saurav Chaudhuri

.... For the State

Mr. Pradip Kumar Das

Mr. Sandipan Maity

.... For respondent no. 9

This is an assigned writ petition.

Mr. Kaushik Chandra Gupta, learned advocate
appears for the petitioner.

Mr. K. J. Yusuf, learned Additional
Government Pleader with Mr. Saurav Chaudhuri,
learned advocate appears for the State respondents.

Mr. Pradip Kumar Das, learned advocate with
Mr. Sandipan Maity, learned advocate appears for
private respondent no. 9.

The writ petitioner and private respondent no.
9 are the co-sharers in respect of a chunk of land.
The private respondent has already filed a partition
suit before the jurisdictional Civil Court in which an
order of status quo with regard to the nature and
character of the land was passed dated **January 24,**
2024. The parties submit that the said order of
status quo is still in existence till disposal of the suit.

The petitioner complains of that in the selfsame plot of land the private respondent has been carrying out mining works and excavating mines and minerals there from. Referring to the documents dated **November 12, 2024** at **page 48** to the writ petition the petitioner submits that the jurisdictional B.L. & L.R.O. informed the petitioner that the subject land is classified as ***Baid*** and not a mining land. The petitioner has submitted representation date **January 6, 2025** at **page 44** to the writ petition before the respondent State authorities but the same has not been considered.

The first question is required to be decided whether the private respondent has been carrying out any mining activity from the subject land.

Mr. Pradip Kumar Das, learned advocate appearing for the private respondent no. 9 has denied and disputed the allegations of the petitioner. He submits that, before the jurisdictional Civil Court the petitioner applied for police help but by an order dated **November 25, 2024** such prayer was rejected on contest.

The law is well settled that the character of a land if changed without authority of law, the same is required to be restored by the party who has changed the nature and character of the land. It is also true that, if the land is not classified as a mining land then

no mining activity can be carried out therefrom, unless permitted in due process of law.

In view of the above, the petitioner is directed to serve a copy of complete set of writ petition along with a copy of today's order upon the jurisdictional Collector within the meaning of the **West Bengal Land Reforms Act, 1955**.

The jurisdictional Collector after receiving the copy of today's order within a week there from shall issue a prior hearing notice of at least seven days to the petitioner and the private respondent no. 9 and then after granting an opportunity of hearing to them shall decide the issue by passing a reasoned order in accordance with law.

It is made clear that, pendency of partition suit shall have no effect upon the jurisdictional Collector to decide the issue whether mines and minerals are excavated by either of the parties from the subject land without due process of law.

In the event, the Collector is of the view that the nature and character of the land has been changed and excavation of mines and minerals are carried out there from without due process of law, then the Collector shall be free to decide and pass its reasoned order in accordance with law.

It is made clear that this Court has not gone into the merits of the rival claims of the parties and

the parties shall be at liberty to urge whatever points they wish to urge by relying upon whatever records and documents they wish to rely upon before the jurisdictional Collector but the same shall not travel beyond the scope of the case made out in the writ petition alleging the private respondent no. 9 is excavating mines and minerals from the subject land.

The entire exercise shall be carried out and completed by the jurisdictional Collector positively within a period of **six weeks** from the date of communication of this order and the reasoned order then shall be communicated to the petitioner and the private respondent no. 9 positively within **a week** from the date of the said reasoned order to be passed.

In the event, the reasoned order confirms the excavation of mines and minerals from the land without due process of law by either of the parties, the jurisdictional Collector and/or other State authorities shall take all necessary and consequential steps against the delinquent strictly in accordance with law including directing to restore the subject land in its original state.

It is made clear that, this order shall not create any right or equity in favour of the petitioner or in favour of the private respondent no. 9, if they do not succeed to their respective contentions before the jurisdictional Collector strictly in accordance with law.

In the event, the restoration of the character of land is required and if assistance is sought for by the State authority for such purpose, the local Police authority shall render all necessary assistance to the State authority.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions, this writ petition, **WPA 2583 of 2025** stands **disposed of**, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)