

22.04.2025
Sl. No.6
akd

W. P. A. 4250 of 2025

[Basanta Kumar Das -Vs- The State of West Bengal & Ors.]

Mr. Pritam Choudhury
... ..for the petitioner

Mr. Soumik Ganguli
... .. for the respondents
[Bankura Municipality]

Mr. Srijan Nayak
Mrs. Rituparna Maitra
... .. for the State

1. Despite service of notice, nobody appears on behalf of the private respondents.
2. The petitioner has preferred the present writ petition being aggrieved by alleged unauthorized construction being carried out by the private respondents at Plot nos. 413/691, 413/694, 413/693 and 413/688, allegedly encroaching upon the 10 ft. wide common passage running from east to west.
3. It is the case of the petitioner that he is the owner of a landed property measuring about more or less 0.08 acre, situated at Mouza- Adhurjabandh, J.L. No.- 227, Plot No.- 413/690 under Bankura Municipality Ward No.- 11 within Bankura Police Station, District- Bankura. One Smt. Charu Bala Das Gupta, wife of Durga Das Gupta is a recorded owner of a plot of land being No.- 413/691 situated at Mouza- Adhurjabandh, J.L. No.- 227. The said plot of land is situated at the Southern side of the petitioner's residential house. It is to mention that between the petitioner's residential house and the said plot no. 413/691 there is a 10 feet wide passage running from East to West connecting the Municipal Road and the said

passage also connected the plot nos. 413/694, 413/693 and 413/688. It is to be noted here that the said 10 feet passage running from East to West is used by the petitioner and other local inhabitants as their approach way towards the main road and there is no other alternative road and/or pathway which can be availed by the petitioner and other local inhabitants for the purposes as approaching road towards the main road. Moreover, the said pathway used by the petitioner and other local inhabitants also for drainage purpose. In spite of the fact that Smt. Charu Bala Das Gupta, being the recorded owner of the said plot no. 413/691, one Supriya Das, Son of late Sachindra Nath Das i.e. the private respondent no. 9 along with private respondent nos. 10 and 11 herein started constructing three residential houses over the said plot of land under Pradhan Mantri Awas Yojana scheme without obtaining any sanctioned building plan or requisite permission from the respondent-Bankura Municipality. It is further alleged that, in the course of such construction, the private respondents had encroached upon the 10 ft. wide common passage without leaving any statutory vacant space on the northern side i.e. on the side of the petitioner's residential house, thereby obstructing public access to the road used by the residents in the said locality. The petitioner further submits that a complaint was duly lodged before the respondent-Bankura Municipality on 18.09.2024, but despite the same, no remedial action was taken by the concerned authority. Subsequently, M.P. Case No. 814 of 2024 was instituted before the Executive Magistrate, wherein the police authorities were directed to intervene vide order dated 25.09.2024. The police was directed to see whether any

unauthorized construction or encroachment takes place on the said common passage.

4. A report filed by the respondent-Bankura Municipality is taken on record. Report shows that under the Pradhan Mantri Awas Yojana scheme, the constructions have been carried out on the said plots. It is also evident that the buildings marked as '1' and '2' were constructed under the Pradhan Mantri Awas Yojana scheme and the other building marked as '3' does not fall within the purview of the said Pradhan Mantri Awas Yojana scheme and has allegedly constructed without any sanctioned plan.

5. Learned Advocate for the respondent-Bankura Municipality submits that appropriate action shall be initiated for demolition of the unauthorized construction which has come up without any valid sanctioned building plan, in accordance with law. It is further assured that due process under the relevant statutory framework shall be adhered to and the matter shall be carried to its logical legal conclusion.

6. In view of the submissions made by the learned Advocate for the respondent-Bankura Municipality, petitioner submits that he will be satisfied if the respondent-Municipality takes necessary steps in accordance with law regarding the unauthorized portion marked as no. '3' in the photograph.

7. Learned Advocate for the petitioner also submits that there was a 10 ft. wide common passage.

8. As regards the purported existence of a 10 feet wide common passage, this Court notes that no documentary evidence has been placed on record by the petitioner to conclusively establish such a claim. The existence or non-

existence of the said common passage constitutes a disputed question of facts which in the considered view of this Court cannot be adjudicated upon in the present writ jurisdiction. The petitioner is, however, at liberty to pursue the said issue before the appropriate Civil Forum.

9. With the aforesaid directions, the present writ petition is disposed of.

10. Since no affidavits have been filed by the respondent, the allegations made in the writ petition shall not be deemed to have been admitted.

11. There shall be no order as to costs.

12. Let urgent Photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Gaurang Kanth, J.)