

S/L 10
08.04.2025
Court. No. 19
Suwayan

WPA 5979 of 2025

**Chand Roy Hansda & Ors.
Vs.
The State of West Bengal & Ors.**

*Mr. Ashis Kumar Chowdhury
Mr. Rajib Ghosh
Mr. Babru Bahan Bera*

...for the petitioners.

*Mr. Soumitra Bandopadhyay
Mr. Ram Chandra Guchhait*

...for the State.

*Mr. Sanjib Kumar Dan
Mr. Anirban Datta*

...for the respondent nos. 10 & 11.

1. The affidavit-of-service as filed today on behalf of the writ petitioners is taken on record.
2. Learned Advocate for the State submitted a report dated 23.03.2025 as submitted by I.C. Rampur P. S. Let the report be taken on record.
3. By filing the instant writ petition the writ petitioners have prayed for issuance of appropriate writ or writs against the respondents/authorities more specifically against the respondent no. 5/authority commanding him to consider the representation of the writ petitioners as submitted on 09.12.2024 and 18.02.2025.
4. In course of hearing learned Advocate appearing on behalf of the writ petitioners at the very outset draws attention of this Court to page nos. 26 to 28 of the instant writ petition being a copy of the representation dated 18.02.2025 as submitted by the

writ petitioner no. 3 with the respondents/authorities. It is submitted on behalf of the writ petitioner no. 3 that under cover of the said letter dated 18.02.2025 it was brought to the notice of the respondents/authorities that the private respondents are carrying on illegal extraction of stone as well as excavation in plot nos. 3948, 4043, 4044 and 4045 in Mouza – Tarachua in the District of Birbhum. It is submitted that in the event the prayers as made in the instant writ petition was not allowed the private respondents would soon change the nature and character of the land without obtaining any licence from the respondents/authorities and thus the same would destroy the entire eco-system leading to loss of bio-diversity.

5. Such contention is vehemently opposed on behalf of the private respondents.
6. Learned Advocate appearing on behalf of the private respondents submits before this Court that the private respondent no. 10 is a widow lady and the private respondent no. 11 is her minor daughter. It is denied that the private respondents are making any illegal excavation over the aforementioned plots. It is further submitted on behalf of the private respondents that in the meantime the writ petitioners being the plaintiffs in Title Suit no. 199 of 2023 has already obtained an order of *status quo* from the jurisdictional civil court and thus in view of availing the alternative remedy the instant writ petition is not

maintainable. It is further submitted on behalf of the private respondents that the subject matter as involved in the instant writ petition is similar to the subject matter as involved in Title Suit no. 199 of 2023 as pending before the jurisdictional civil court.

7. Learned Advocate appearing on behalf of the respondent/State opposes the contention of the writ petitioners.
8. On careful consideration of the entire materials as placed before this Court and after hearing the learned Advocates for the contending parties it reveals to this Court that the writ petitioners being the plaintiffs before the learned Trial Court has filed Title Suit no. 199 of 2023 with a prayer for grant of decree for declaration of his title over the scheduled mention property of the plaint of the said suit and for a decree for permanent injunction restraining the defendants (private respondents herein) from dispossessing the plaintiffs from the suit property. However, on perusal of the letter dated 18.02.2025 it appears to this Court that it is the grievance of the writ petitioners that the respondents/authorities pay no heed to their representation dated 18.02.2025 since under cover of the said letter it has been brought to the notice of the respondents/authorities that the private respondents are making an attempt to change the nature and character of the suit property by way of illegal excavation and extraction of stone without obtaining any license from the appropriate authority.

9. It thus appears to this Court that the subject matter of litigation as involved in the instant writ petition differs from the subject matter of litigation as involved in Title Suit no. 199 of 2023.
10. It thus appears to this court that the plea of availing alternative remedy as raised from the side of the private respondents is not tenable in law and this Court thus holds that the instant writ petition is very much maintainable.
11. On further careful consideration of the entire materials as placed before this Court and after hearing the learned Advocates for the contending parties at length this Court while disposing the instant writ petition directs the respondent no. 5 i.e.; the District Magistrate, Birbhum to cause an enquiry with regard to the allegation as made by the writ petitioner no. 3 under cover of his letter dated 18.02.2025 by deputing an Officer no below the rank of BL&LRO after serving due notice upon all the writ petitioners and the private respondents and thereafter shall consider the representation of the writ petitioner no. 3 dated 18.02.2025 in the context of the report as would be submitted by the BL&LRO and shall pass a reasoned order soon thereafter after giving an opportunity of hearing to the writ petitioners and the private respondents and/or their authorized representatives and shall communicate such order to the writ petitioners and the private respondents forthwith preferably by mail if the mail

details of the writ petitioners and the private respondents are provided to him at the time of hearing.

12. It is pertinent to mention herein that in the event the respondent no. 5 i.e.; the District Magistrate, Birbhum finds sufficient substance in the representation dated 18.02.2025 as submitted by the writ petitioner no. 3 he shall forthwith take appropriate action for stoppage of illegal excavation and/or extraction of stone as alleged.

13. Liberty is given to the writ petitioners to communicate the server copy of this order to the respondent no. 5 forthwith.

14. The respondent no. 5 is hereby directed to act on server copy of this order.

15. With the aforementioned observation, the instant writ petition being WPA 5979 of 2025 is disposed of.

16. Urgent Xerox certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Partha Sarathi Sen, J.)