

01.07.2025

Ct. No.42

D/L.2

(PP)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

W.P.A. No.6124 of 2025

Abdul Khalek Mondal

-Versus-

The State of West Bengal & Ors.

Md. Younush Mondal

...for the petitioner.

Ms. Tuli Sinha

...for the State.

Mr. Tanweer J. Mandal,

Ms. Somashree Dey,

Ms. Swastika Roy

....for the respondent no.7.

This matter is appearing under the heading “To Be Mentioned”.

Affidavit of service filed on behalf of the petitioner is taken on record.

Leave is granted to the learned advocate for the petitioner to correct the classification in presentation form and the cause title of the writ petition.

This writ petition is filed seeking direction upon the respondent authorities to take proper steps in accordance with law against the private respondent and demolish illegal and unauthorised construction over the land-in-question undertaken by the private respondent.

The petitioner contends that his father, the predecessor-in-interest, was the original owner of the land situated at plot no.1253, Mouza – Odhanpur,

J.L.No.6, P.S.- Deganga measuring about 16.22 decimals and has mutated his name before the concerned authority. The father of the petitioner died leaving behind three sons and three daughters. Three daughters transferred their shares in respect of the land-in-question measuring about 11 decimals by way of deed of gift on 27th May, 2020 in favour of the petitioner and accordingly, the petitioner became the owner in respect of 16 decimals of land-in-question. The private respondent, being the brother of the petitioner, has started to make construction over the land-in-question. The petitioner filed a civil suit, being T.S.795 of 2024 before the learned Civil Judge (Junior Division) 1st Court, Barasat, North 24-Parganas wherein an order of injunction was passed. Despite such order, the private respondent is making construction. On 3rd March, 2025, the petitioner made a representation before the respondent no.6, being the Prodhan of Sohail-Swetpur Gram Panchayat for redressal of his grievances. However, no steps has been taken. Hence, this writ petition.

Md. Younush Mondal, learned advocate for the petitioner submits that the private respondent is making unauthorised construction over the land of the petitioner. He seeks for specific direction upon the respondent no.6, being the Prodhan of Sohail-Swetpur Gram Panchayat to take appropriate steps.

On the contrary, Mr. Tanweer J. Mandal, learned advocate for the private respondent no.7 submits that the dispute between the parties is a private dispute which is precisely civil in nature and the matter is pending before the civil court wherein a *status quo* order has been passed. Hence, the writ petition is not at all maintainable.

Ms. Tuli Sinha, learned advocate for the State submits that several litigations are pending by and between the parties including a civil suit. She files a report furnished by the Inspector-in-Charge, Deganga Police Station dated 24th March, 2025, which is taken on record.

Admittedly, a civil suit has been filed by the petitioner before the learned Civil Judge (Junior Division) 1st Court, Barasat, North 24-Parganas, being T.S. No.795 of 2024. In the said suit, at the instance of the petitioner, an order has been passed directing the petitioner as also the private respondent to maintain *status quo* over the suit property. As such, it appears that the entire dispute between the parties is civil in nature.

In view of the above, the writ petition being no. **W.P.A. 6124 of 2025** is dismissed. No order as to costs.

However, it is open to the petitioner to approach the civil court, if so advised.

Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.

Interim order, if any, stands vacated.

All connected applications, if any, stand disposed of.

All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.

Urgent Photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)