

10.02.2025
Sl. No.6(ML)
srm

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

W.P.A. No. 8275 of 2024

Nishikanta Sardar

Versus

The State of West Bengal & Ors.

Mr. Dipayan Kundu,
Mr. Sagnik Maulik

...for the Petitioner.

Mr. Sounak Bhattacharya

...for the State-respondents.

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

This writ petition has been filed seeking direction
upon the respondent authorities and their men and
agent to demolish the unauthorised structure at
Mouza – Gourdaha, J.L. No.040, L.R. Dag Nos.494
(Doba) and 495 (Bastu), L.R. Khatian Nos.3299 and
3323 under Bansra Gram Panchayat, Canning 1
Panchayat Samity, Police Station – Jibantala, District –
South 24 Parganas.

The petitioner's case in brief is as follows. The
private respondents are raising unauthorised structure
within the property-in-question. A civil suit being Title
Suit No.196 of 2019 was instituted by the petitioner
before the learned Civil Judge (Senior Division), 1st
Court at Baruipur, South 24-Parganas alleging of

encroachment upon the property in question. An application under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure was also filed, which upon hearing was rejected. On 28th November, 2023 a representation was made before the local Bansra Gram Panchayat, Canning 1 alleging of forcible construction by the private respondents. However, no steps have been taken by the panchayat to stop such illegal unauthorised construction at the instance of the private respondents, hence this writ petition.

Mr. Dipayan Kundu, learned Advocate for the petitioner submits that illegal unauthorised construction has been undertaken by the private respondents over the property-in-question. A representation was made before the local panchayat, but no steps have been taken to stop such illegal construction of the private respondents. As such the petitioner is constraint to file the present writ petition for appropriate relief. He seeks that the matter be relegated to the Pradhan, Bansra Gram Panchayat, the respondent No.6 herein, for considering the representation of the petitioner.

Mr. Sounak Bhattacharya, learned Advocate for the State-respondents submits that the matter is *sub judice* before the learned civil court and it would be proper for the petitioner is to file appropriate

application before the learned civil court for efficacious relief. Further, there are no elements of unauthorised construction stated in the representation of the petitioner. He seeks dismissal of the writ petition.

Upon perusal of the materials on record, it is not in dispute that there is a civil suit filed at the instance of the petitioner pending before the learned Civil Judge (Senior Division), 1st Court at Baruipur, South 24-Parganas being Title Suit No.196 of 2019. Accordingly, it is left open to the petitioner to approach the civil court, if such illegal construction has been undertaken by the private respondent Nos.9 and 10. Considering the above, this Court finds that there is no merit in the writ petition.

Accordingly, the writ petition being **WPA 8275 of 2024** stands disposed of.

Interim order, if any, stands vacated.

All connected applications, if any, stand disposed of.

There shall be no order as to costs.

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.)