

12.08.2025
Court No.42
Item No.184
sudipta

WPA 11418 of 2024

**Kamal Karmakar & Anr.
Vs.
The State of West Bengal & Ors.**

Mr. Saurav Chawdhuri
Mr. Manik Kundu
Mr. Janardan Mandal

....for the petitioners.

Mr. Bipin Ghosh

....for the State.

1. By the present writ petition the petitioners seek for demolition of unauthorized constructions undertaken by the private respondents.
2. The petitioner contends that the private respondent nos. 10 to 13 along with their mother Sandhya Das filed a suit for eviction of trespassers and for recovery of Khas possession against the petitioners being Title Suit No. 159 of 1997. The petitioners are in possession in the suit property being R. S. Khatian No. 195, R.S. Dag No. 258, L. R. Khatian NO. 458 Kri, L. R. Dag No. 442 under Mouza – Manaspur for more than 51 years as Bhagchasis. The suit filed by the private respondents was dismissed by the Civil Judge, Junior Division, 1st Court, Hooghly, Sadar. The judgment of the Civil Court was challenged in appeal and Appeal Court

in Title Appeal No.193 of 2003 affirmed the order of the learned Trial Court and dismissed the appeal. The private respondents filed a Second Appeal being S.A. No. 156 of 2007 wherein a status quo order was passed as regards possession, nature and character of the suit property. After passing of the said order, the private respondents have undertaken illegal unauthorized construction over the subject property being R. S. Khatian No. 195, R.S. Dag No. 258, L. R. Khatian NO. 458 Kri, L. R. Dag No. 442 under Mouza – Manaspur. Representations were made before the local gram panchayat, however, no steps has been taken. Hence, this writ petition.

3. Learned Advocate for the petitioner submits that the illegal construction undertaken by the private respondents is in violation of the order passed in the Second Appeal. The Pradhan is the appropriate authority to cause enquiry with regard to such illegal construction under Section 23 of the West Bengal Panchayat Act, 1973. He seeks for appropriate direction upon the Pradhan of the local gram panchayat for considering the representation of the petitioner.
4. Learned Advocate for the State submits that as per the report of the Block Development Officer no

such application has been received for building permission. The report dated 26th November, 2024 of the Block Development Officer, Chinsura-Mogra Panchayat Samity, Mogra-Hooghly, is taken on record.

5. At the instance of the private respondents, a Civil Suit was filed being Title Suit No. 159 of 1997 for eviction of the petitioners from the subject land. The said suit was dismissed by the Civil Court on 28th October, 2003. Such order of the Civil Court was challenged in appeal which has been also dismissed on 5th May, 2006. Against such order passed in appeal, a Second Appeal being S.A. No. 156 of 2007 has been preferred before this Hon'ble Court wherein an order has been passed on 26th April, 2007 which is reproduced hereunder:

"The parties are directed to maintain status-quo, as of today, as regards the possession and the nature and character of the suit property during pendency of this application."

6. Thus, from the aforesaid, it is found that the dispute is civil in nature. As such the writ petition is not maintainable and is liable to be dismissed.
7. Accordingly, the writ petition **WPA 11418 of 2024** is dismissed.
8. However, it is left open to the petitioners to approach the Appellate Court.

9. All connected applications, if any, stand disposed of.

10. Interim order, if any, stands vacated.

11. All parties shall act on the basis of the server copy of this order duly downloaded from the official website of this Court.

12. Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Bivas Pattanayak, J.)