

31.07.2025
Sl. No.38(DL)
Ct. No.42
srm

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

W.P.A. No. 11030 of 2025

Sri Bapi Das

Versus

The State of West Bengal & Ors.

Mr. Amit Baran Dash,
Ms. Ankana Sarkar

...for the Petitioner.

Mr. Amal Kumar Sen, AGP
Mr. Lal Mohan Basu

...for the State.

Mr. Shuvro Prokash Lahiri,
Mr. Rajesh Naskar,
Mr. Ankan Mondal

...for the Respondent No.9.

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

By the present writ petition, the petitioner seeks
for a direction upon the respondent authorities to take
appropriate steps for demolition and/or stopping the
construction of the illegal building constructed by the
respondent No.9 in Plot No.487, Mouza Gobindapur,
Police Station Ramnagar, District Purba Medinipur.

The petitioner contends that he and the private
respondent No.9 are the co-sharers in respect of the
aforesaid property. The private respondent No.9 has
undertaken illegal and unauthorised construction
without taking permission from the concerned local
gram panchayat. A representation was made before the

Pradhan, Southkhanda Gram Panchayat, the respondent No.5, however, no steps have been taken. Hence, this writ petition.

Mr. Amit Baran Dash, learned Advocate for the petitioner submits that the private respondent No.9 has undertaken illegal and unauthorised construction over the plot-in-question without sanctioned building plan. He seeks that the matter be relegated to the Pradhan to consider and dispose of the representation of the petitioner.

On the contrary, Mr. Shuvro Prakash Lahiri, learned Advocate for the private respondent No.9, at the outset, submits that there is suppression of material facts by the petitioner. The present writ petitioner along with his mother filed a suit for partition being Title Suit No.232 of 2025 before the learned Civil Judge (Senior Division), 1st Court, Contai wherein a *status quo* order has been passed by the Court in respect of the property-in-question. The said fact has not been disclosed in the writ petition. The prayer in the civil suit is similar to what has been prayed in the writ petition. Further, he submits that the work of construction, if any, is undertaken under the *Bangla Awas Yojana*, as such no permission is required. He seeks for dismissal of the writ petition. In support of his contentions, he relies on the decision of this Court in the matter of ***Manas Adhikary vs. The State of West Bengal & Ors.*** (In Re: ***WPA 18563 of***

2025). He files copy of the plaint, injunction petition and order passed by the learned Civil Court dated 6th May, 2025.

Mr. Amal Kumar Sen, learned Additional Government Pleader appearing on behalf of the State submits that the order relied upon on behalf of the private respondent is in respect of the *Pradhan Mantri Awas Yojana* and not under the *Bangla Awas Yojana*. The schemes and their requirements are different and distinct and, therefore, the above decision cannot have any bearing to the facts and circumstances of this case. He further submits that the gram panchayat is authorised to examine as per mandate of law whether any work of construction is undertaken unauthorisedly and illegally. Pendency of civil suit will not debar the gram panchayat from holding such enquiry.

Upon going through the copy of the plaint filed at the instance of the petitioner and his mother seeking for partition being Title Suit No. 232 of 2025, it is found that similar prayer for restraining the defendants from making construction has been made before the civil court. Upon hearing the parties, the civil court has passed order in Title Suit No.232 of 2025:

*“that the application under order 39, rule 1 and 2 read with section 151 of the Code of Civil Procedure for ad interim injunction is considered and allowed, **ex-parte**; Both the plaintiffs and defendants no.1 & 2 are hereby directed to maintain status quo in respect of the nature, character and possession of the suit ‘Ka’ & ‘Kha’ schedule properties as on this date **till 05.06.2025 or till further order as the case may be;**”*

Such fact has not been disclosed in the present writ petition. That apart, the dispute appears to be civil in nature.

It is a fact that the decision in *Manas Adhikary (supra)* has been passed in respect of *Pradhan Mantri Awas Yojana*. Though Rule 19(1) of West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004 provides that no permission is required for construction of houses under poverty alleviation programme, yet the features of *Bangla Awas Yojana* has not been pressed into service by the respondent. Hence, it would not be appropriate to make any observation in this regard.

In view of the above, the writ petition being **WPA 11030 of 2025** is dismissed.

Interim order, if any, stands vacated.

All connected applications, if any, stand disposed of.

There shall be no order as to costs.

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.)