

22.12.2025

Ct. No. 15
Sl. No. 153
MD

In The High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 12179 of 2025

Momotaj Mallick & Ors.
Vs
The State of West Bengal & Ors.

Mr. Samarendra Nath Biswas
..... for the Petitioners
Mr. Subhabrata Das
.....for the State
Mr. Amitava Chaudhuri
Mr. N. Roy
.....for the Nadia Zilla Parishad

It is the allegation of the petitioners that the Zilla Parishad has undertaken construction of a boundary wall in front of their houses and shops. It is alleged that the said boundary wall has been constructed without leaving adequate space, thereby obstructing ingress to and egress from the houses and shops of the petitioners.

Learned counsel appearing on behalf of the Zilla Parishad, on the other hand, submits that a bus stand has been in existence at the site since 2008 and that only certain toilet blocks have been constructed recently. It is further submitted that, while constructing the boundary wall around the toilet blocks, sufficient space has been maintained between the wall and the houses and shops of the petitioners.

It appears from the records that the relevant portion of the State's report is reproduced below:

"It is categorically submitted that the Nadia Zilla Parishad is not constructing any such boundary wall, which is encroaching upon the petitioners' land. As a result, the question of blocking the ingress and egress of the residential house of the Petitioners herein, cannot and does not arise at all. It is also submitted that, in from of the Business Counters of the petitioners, the construction has been done by leaving ample space.

It is further submitted that, the concerned constructions are going on, in the interest of the public and the State Government does not do this work, then nuisance may be created here and there. For the upliftment of the environment and in the interest of the public welfare, the State Government is duty bound to make such hygienic related constructions in a densely populated area. It is also submitted that, however, in the interest of public and for the upliftment of the environment and to maintain hygiene in the locality, public toilet is very much required and as on date, the work is going on, but the State or the Zilla Parishad, did not acquire one inch of land belonging to the petitioners herein. "

The Zilla Parishad has also filed an affidavit reiterating the statements made in the report. The averments contained in the said report and affidavit have not been specifically denied by the petitioners in their reply.

The State and the Zilla Parishad have further produced photographs before this Court to demonstrate that sufficient space has been maintained between the houses and shops of the petitioners and the toilet blocks.

It is admitted by the petitioners that the toilets and the boundary wall are situated on Public Works Department (PWD) land and that no portion of the petitioners' land has been encroached upon. By filing the present writ petition, the petitioners essentially seek enforcement of an easementary right.

In my view, this Court cannot enforce such a right, particularly when the allegation of obstruction to ingress and egress to the houses and shops of the petitioners is not borne out from the records or the photographs produced before the Court.

Let the photographs filed by the State be kept with the records.

Accordingly, **WPA 12179 of 2025** is dismissed.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)