

30.06.2025
Item No.26
Court No. 11
Avijit Mitra

MAT 869 of 2025
with
IA No. CAN 1 of 2025
with
IA No. CAN 2 of 2025

Narattyom Dutta Roy
Vs.
Ambud Buildcom Private Limited & Ors.

Mr. Billwadal Bhattacharyya, Sr. Adv.
Mr. Anish Kumar Mukherjee,
Mr. Suryaneel Das,
Ms. Tanusree Kar,
Mr. Chiranjit Pal,
Mr. Tamoghna Pramanick,
Mr. Anish Gupta

.... For the Appellant

Mr. Jaydip Kar, Sr. Adv.
Mr. Pranit Bag,
Ms. Pooja Jewrajka,
Mr. Rahul Poddar,
Mr. Jyoti Rauth,
Ms. A. Das,
Mr. Souvik Banerjee,
Ms. Srijita Chakraborty

..... For the respondent nos. 1 to 18

Ms. S. Sinha,
Ms. Ashmita Chakraborty

..... For the State respondents

1. The present appeal arises from an order dated 20th May, 2025 passed by the learned Single Judge disposing of the Writ Petition filed by the writ petitioners/respondents herein being WPA 10540 of 2025, directing inter alia the police authority to keep surveillance at the subject premises and also to ensure that the writ petitioners are not obstructed or any untoward incidents result therefrom due to their continuation of work.

2. The appellant herein was not a party to the Writ Petition in which the order impugned was passed. The appellant has thus preferred an application CAN 1 of 2025 seeking leave to prefer an appeal against the impugned order and judgment of 20th May 2025.
3. The brief facts necessary for disposing of the matter may be summarised as under:
 - A. The appellant represents an association of persons known as the “Reckjoani Gram BasiBrinda”.
 - B. The grievance of the appellant is that within the 5 Bighas of land, there is a water body/ pond which forms the ecological backbone of the area, used primarily as a water source for the persons staying in the locality as well as a minor source of irrigation.
 - C. The appellant further states that the pond was converted by the private respondents to land, in spite of their repeated objections thereto, with the aid and abetment of the authorities concerned including the police.
 - D. The appellant states that by letters dated 31st March 2025, 11th April 2025 and a third letter to the National Green Tribunal (hereinafter NGT), they intimated the authorities that an offence (conversion of pond to land) was brought to their notice. On the basis of such a complaint, the NGT had suo moto instituted proceedings against such “illegal conversion”.

- E. Two orders were passed by the NGT, the first on 16th April 2025 directing impleadment of the District Magistrate, North 24 PGS and Department of Environment and also directed that a fact-finding committee be constituted with the District Magistrate and/or his nominee not below the rank of Additional District Magistrate and a scientist to apprise the Tribunal about the true facts and circumstances in the matter by filing a report in respect thereof.
- F. In the meantime, the private respondents herein, coming to learn of such proceeding, approached the NGT and sought impleadment in the proceeding as a party respondent thereto. This application was made on 7th May 2025.
- G. On the very same day, that is 7th May 2025, the private respondents herein filed a Writ Petition before this Hon'ble Court seeking inter alia a direction to the police authorities to maintain peace and tranquillity in the area "as miscreants were disturbing the construction process and thereby impeding progress of the project".
- H. The NGT, on the returnable date, that is on 19th May 2025, granted the prayer of the fact-finding committee for extended time to file the report and posted the matter for further consideration on July 11, 2025. By the same order, the application by the private respondents/writ petitioners herein was taken

on board and directions were given to file affidavits. The application was also made returnable on July 11, 2025.

- I. On May 20th 2025, the Writ Petition was heard and disposed of with a direction to the police authorities to keep surveillance and ensure that the petitioners were not obstructed from continuation of the work at the project site.
 - J. It is this order, which is being assailed before us.
4. These are, in short, the admitted facts of the case.
 5. In order to obtain leave to appeal as prayed for in CAN 1 of 2025, the appellant has to satisfy the Court that he is an “aggrieved person”.
 6. The appellant, in addition to arguing that he is indeed an aggrieved person and a necessary and proper party to the proceeding, has also raised a tandem issue alongside the primary issue. The tandem issue relates to suppression of material facts by the writ petitioners/respondents herein while moving the Writ Petition.
 7. The appellant has stated that as members of the village, they would be seriously affected if the water body is converted into land. This, primarily because the ecological balance of the area would be completely disrupted as such a water body serves the local population, contributes significantly to the ground water recharge and/or environmental sustainability of the area.

8. The appellant has also argued that they demonstrated, peacefully, to object to and oppose the act of filling up the water body to convert the same into land. The appellant has also further argued that the police authority, despite knowledge of the same, deliberately took no action in the matter and permitted the filling up of the water body by the writ petitioners/respondents herein.
9. The appellant has relied upon the following decisions of the Hon'ble Supreme Court of India as well as of this Hon'ble Court. The decisions relied upon by the appellant are: (i) 2012 8 SCC 326, in which it was held that this sort of litigation falls squarely within the jurisdiction of the NGT and cannot be entertained by the Hon'ble High Court to ensure that there is no conflict of orders between the High Court and the NGT.
10. The second decision is reported in 2020 (20) SCC 581, where the definition of a person aggrieved has been clearly spelled out by the Hon'ble Supreme Court holding inter alia that the responsibility is to ensure protection and integrity of the environment, especially one which is a source of livelihood for the rural population and life for local flora and fauna. In fact, the Hon'ble Supreme Court further adds that the protection of village commons is essential to safeguard the fundamental rights guaranteed by Article 21 of the Constitution. In fact, the Supreme Court took note of the fact that these areas are the

lifeline of the village community and often sustained various chores and provide resources necessary for life.

11. The third decision reported in 2008 12 SCC 481 relied upon by the appellant relates to abuse of process of Court and on suppression of material facts.
12. The fourth decision is one reported in 2006 (4) CHN 847 where it has been categorically held that parallel remedies cannot be pursued by a person to aid his remedies.
13. Learned senior advocate for the respondents has argued that the appellant does not fulfil any of the criteria as set forth in the decisions of the Hon'ble Supreme Court of India by which he can be said to be bound by the impugned order or that the impugned order is in any manner detrimental or prejudicial to him. Thus, the appellant is by no stretch of imagination a necessary or a proper party in the Writ Petition. Learned senior advocate also argued that the writ petitioners/respondents have obtained necessary permission to convert the water body into a land mass. In fact, he went on to argue that the writ petitioners/respondents have also created an alternative water body. The respondents/writ petitioners have also relied upon certain decisions of the Supreme Court.
14. The respondents have relied upon 2020 (9) SCC 501 where it was held that a person aggrieved does not include a person who suffers from a psychological or

imagined injury but one whose right has been adversely affected and jeopardized. The second decision relied upon by the writ petitioners/respondents is reported in 2025 SCC On-Line SC 183 where the Hon'ble Supreme Court has in no uncertain terms reiterated the principles regarding an aggrieved person.

15. We have heard the parties at length and considered the documents on record and decisions relied on by them.
16. From a short conspectus of facts germane to the present application (CAN 1 of 2025) seeking leave to appeal, it is useful to start with the fact that on 7th May, 2025, when the writ petitioners/respondents herein filed an application for impleadment before the NGT and also the Writ Petition before this Hon'ble Court, not a whisper was made in either of the petitions regarding pendency of the other proceeding. Thus, the NGT was not aware of the Writ Petition filed, and the Hon'ble High Court was not aware that a proceeding in the NGT had been initiated. In fact, other than the writ petitioners, none of the other parties to either of these proceedings were aware that the other proceeding had been initiated by the writ petitioners. This is unacceptable. The writ petitioners cannot pick and choose the facts that they wish to disclose and those that they do not wish to. The hide-and-seek approach adopted by the writ petitioners is in clear violation of the principles of natural justice and cannot be condoned in any manner whatsoever. Insofar

as the issue of an aggrieved person is concerned, it would not have been one of much concern, had the writ petitioners not mentioned the “Reckjoani Gram BasiBrinda” as the miscreants in the Writ Petition, alleging that it was these common villagers who were threatening the writ petitioners, making illegal demands of money and using abusive language. The direct allegation was against these common villagers who are before us through a representative of theirs.

17. To come within the four corners of a “person aggrieved” and thereby entitled to prefer an appeal from the impugned order, certain parameters have been laid down by the Hon’ble Supreme Court of India in various decisions over a period of time. These parameters may be summarised as under:

- (i) The person aggrieved is bound by the order he seeks to challenge.
- (ii) The order which the person aggrieved seeks to challenge is detrimental and prejudicial to the interest or right or title of the person concerned.
- (iii) The detriment and/or prejudice cannot be remote and has to be shown to have a direct effect on the rights of the aggrieved person.

18. The villagers are rustic and are not equipped with the wherewithal to establish a club or a society or an association, as alleged by the writ petitioners/respondents herein. Undisputedly, the

appellant represents the common people of Reckjoani village, and it is the apprehension of the villagers which has been brought to our notice by way of this application.

19. In the impleadment application before the NGT, filed by the writ petitioners/respondents, such allegations against these common villagers were reiterated, without making a single assertion that on the very same day the impleadment application was being filed, the writ petitioners had also approached the High Court of Calcutta filing a Writ Petition seeking orders of restraint against those same villagers.

20. The allegation against the villagers, if probed, may turn out to be serious in nature and may have serious consequences for such villagers. Clearly, the villagers are affected by the order passed by the Writ Court. The direction to the police authority by the learned Single Judge to ensure that the writ petitioners' construction process is carried on smoothly, is a clear indication that the writ petitioners, in the garb of seeking an innocuous order, had on the sly, obtained orders nullifying the proceeding before the NGT.

21. The allegation against the appellant in the Writ Petition is a clear indication that the appellant is a person bound by such order and against whom the order is detrimental and prejudicial, if proceedings are drawn up against them under the provisions of the BNS 2023. The appellant is also a person aggrieved under Section 2(m) of the

National Green Tribunal Act, 2010 where the community at large is likely to be affected by the environmental consequences of converting the pond into a land mass.

22. The decisions relied upon by the respondents/writ petitioners all relate to civil disputes. In fact, the judgment reported in 2025 SCC On-line SC 183 specifically relates to the addition of a party who is a transferee pendente lite. The decision of the Hon'ble Supreme Court in 2020 9 SCC 501 is also one dealing with the locus standi of a person apropos Sections 96, 100 and Order 1 Rule 10 in a civil matter.

23. The decisions relied upon by the appellant are clear and unequivocal, especially the decision reported in 2020 (20) SCC 581, the facts whereof are very similar to the present case. In the said case, the Hon'ble Supreme Court of India considered a water body being converted into a land mass, which was held to be impermissible in law, even if geographically larger water bodies were made to replace the natural water body which was being converted. In fact, in the said decision the Hon'ble Supreme Court has in no uncertain terms stated that a person aggrieved is one who falls within the parameters of Section 2(m) of the National Green Tribunal Act, 2010.

24. The counsel appearing for the writ petitioners/respondents herein has argued that the basis of the two proceedings were separate and distinct and they could not have affected each other. From the

pleadings, we find that such an argument is ill-founded. In the application for impleadment (at page 42 of the stay petition), we find that the writ petitioners have categorically mentioned therein that the appellant and the association of persons he represents had illegally demanded money from the writ petitioners, threatened them with dire consequences, abused and attacked them. It is also pleaded in no uncertain terms that such association had impeded and obstructed the work of the writ petitioners.

25. Likewise, in the Writ Petition at page 355 and 366, it has been clearly mentioned that the association of which the appellant is a member is the group of miscreants who impeded the work of the writ petitioners/respondents, by illegal demands of money, threats, abuse and attacks. The "miscreants" referred to in the Writ Petition and the persons against whom the writ petitioners/respondents sought orders of restraint from the Court and orders of facilitation of progress of the project by engaging police authorities, are the very same persons who are before us in this appeal through their authorized representatives. Thus, there is absolutely no reason to construe that the Writ Petition does not in any manner impinge on the rights of the appellant, certainly their well-being and goodwill, reasons enough to array them as party respondents to the Writ Petition.

26. Thus, whatever the reasons, filling up the Pond or otherwise, the allegation of the writ petitioners was levelled against the villagers of Reckjoani, represented by the appellant herein, which the writ petitioners ought to have disclosed before the Hon'ble High Court as well as the NGT.

27. Thus, the learned Judge should have had the opportunity to ascertain the feasibility of adding the appellants herein as party respondents in the Writ Petition, prior to passing the order. This could only have been ensured by the writ petitioners/respondents, as it is not for the learned Judge to identify necessary or proper parties and implead them suo moto. The writ petitioners have acted in a manner not befitting a person approaching a Writ Court seeking direction by way of issuance of a writ. Clearly, the conduct of the writ petitioners in obtaining the order of 20th May 2025 undermines consideration of any order in their favour. The writ petitioners ought to have indicated to the learned Single Judge that the persons against whom the complaint was being made, who had allegedly indulged in activities against the writ petitioners' progress with their project, had approached the NGT on the very same cause of action. Not having done so, the writ petitioners are not entitled to any relief in the absence of the appellant.

28. We hold that the appellant herein is affected by the order of 20th May 2025, and is thus a person aggrieved. We grant leave to the appellant to prefer the appeal.
29. As the parties would be denied a forum, we deem it fit to remand the matter to the learned Single Judge, to be heard afresh in the presence of the appellant as a necessary and proper party thereto.
30. We refrain from commenting or expressing any opinion on the merits of the case as we have restricted our findings to the issues which have been raised before us. The parties shall be at liberty to raise all issues on merits both before the learned Single Judge of this Hon'ble Court as well as before the NGT.
31. In the circumstances, we set aside the order of 20th May 2025 and direct the writ petitioners to implead the appellant as a party respondent in WPA 10540 of 2025 and remand the matter back to the Hon'ble Single Judge to be heard afresh in the presence of the appellant.
32. The appeal and the applications being CAN 1 of 2025 and CAN 2 of 2025 are disposed of without any order as to costs.
33. Urgent photostat certified copy of this judgment, if applied for, shall be given to the parties as expeditiously as possible, upon compliance with all formalities.

(Reetobroto Kumar Mitra, J.) (Tapabrata Chakraborty, J.)

