

04.08.2025
(M/L-20)
Ct.-19
(Nandita)

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

W.P.A. 15313 of 2025

Jayanta Mondal
-Vs-
The State of West Bengal & Ors.

Mr. Rwitendra Banerjee,
Mr. Sandip Kundu
.... For the Petitioner

Mr. Soumitra Bandyopadhyay, Sr. Govt. Adv.
Mr. Anirban Sarkar
.... For the State

1. The affidavit-of-service as filed today on behalf of the writ petitioner is taken on record.
2. By filing the instant writ petition the writ petitioner has prayed for issuance of appropriate writ/writs against the respondent authorities more specifically; against the respondent no. 5 herein to take appropriate steps against the private respondent who according to the writ petitioner is filling up a water body, particulars of which has been mentioned in prayer A of the instant writ petition.
3. Mr. Banerjee, in course of the argument at the very outset draws attention to this court to para 3 and paragraph 4 of the instant writ petition. It is submitted by Mr. Banerjee that it is the specific case of the writ petitioner that the present writ

petitioner is contiguous owner of the land of the said water body and the present writ petitioner and his co-villagers are using this said water body for a considerable length of time.

4. It is submitted by Mr. Banerjee that it is further case of the writ petitioner that if the private respondent is allowed to fill up the said water body without prior approval of the respondents State and its instrumentalities the writ petitioner as well as his co-villagers would suffer extensively. In course of his submission Mr. Banerjee places his reliance upon a judgment dated 09.01.2025 as passed in **MAT 930 of 2024 (M/s. Bangbhum Realbuilders LLP Vs. Shri Biplab Das & Ors.)** as disposed of by a Division Bench of this Court.
5. It is submitted by Mr. Banerjee that in the said judgment the Hon'ble Division Bench found that the writ petitioner has *locus standi* to file and maintain the writ petition wherein the writ petitioner has averred that the private respondent are raising a building without any sanction plan.
6. It is submitted by Mr. Banerjee that since the right of the writ petitioner is going to be prejudiced on account of illegal action of the private respondent, it is a fit case for issuing appropriate writ or writs as prayed for.
7. Mr. Bandyopadhyay, learned Senior Government advocate appearing on behalf of the respondents and duly assisted by Mr. Battabal, learned Advocate for the State at the very outset raises

the point of maintainability of the instant writ petition. It is submitted by Mr. Bandyopadhyay that from the pleading of the instant writ petition it would reveal that the writ petitioner has no right, title or interest over the water body, particulars of which has been mentioned in prayer A of the instant writ petition.

8. It is further submitted by Mr. Bandyopadhyay that the instant writ petition is in the nature of a public interest litigation and, therefore, the instant writ petition may not be entertained by this Court.
9. On careful consideration of the entire materials as placed before this Court and after hearing the learned Advocates for the contending parties, this Court finds sufficient justification in the submission of Mr. Bandyopadhyay in as much as within the four corners of the instant writ petition the writ petitioner has miserably failed to establish his independent right, title or interest over the water body which belongs to the private respondent, where alleged illegal filling is going on.
10. In considered view of this court, the writ petitioner before this Court has miserably failed to substantiate any action and/or in-action on the part of the respondent authorities for protecting the right, title and interest of the writ petitioner in any manner whatsoever.
11. In further considered view of this Court that the writ petitioner being a public spirited person has chosen a wrong forum to ventilate his grievance.

In view of such, this Court holds that the instant writ petition is not maintainable before this Court.

Accordingly the instant writ petition is dismissed.

12. However, it is made clear that dismissal of the instant writ petition will not prevent the writ petitioner to approach the appropriate forum on the self same cause of action for ventilating his grievance in future, if so advised.

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

(Partha Sarathi Sen, J.)