

Court No. 8
27.08.2025
Item No.40
PA (Chamber)

WPA (P) No. 307 of 2025

**Badal Mondal
VS
The State of West Bengal & Ors.**

Mr. Tarapada Das
Mr. Md. Hasanuz Zaman
Mr. Md. Zeeshanuz Zaman
Mr. S.K. Akhan
...for the petitioner

Mr. Amitabrata Roy, Ld. GP
Mr. Nilotpol Chatterjee,
Ms. Shibasish Banerjee
...for the State

Mr. Sounak Bhattacharya,
Ms. Bipasha Bhattacharyya
...for the respondent No. 11 &12

Mr. Chandra Nath Sarkar
Mr. Sounak Mondal
...for the respondent no. 12,13 & 14

Dictated by Smita Das De, J.

1. Heard the learned counsel appearing on behalf of the petitioners and the respective parties.

2. The instant writ petition has been filed in the nature of public interest litigation by the petitioner praying inter alia for the following relief(s):-

“a) A writ in the nature of mandamus directing the State respondents their men and agents to stop the illegal and unauthorized construction over the land in question measuring about 1.37 acres lying and situated under Mouza Alipur, J.L. No. 101, Touzi No-249, R.S. Khatian No. 374 & 659, corresponding to L.R.

*Khatian No. 108, R.S. & L.R. Dag No.- 1792,
Dist- South 24 Parganas;*

b) A writ in the nature of mandamus directing the State respondents their men and agents to consider the representations made by your petitioners;

c) A writ in the nature of mandamus directing the State respondents their men and agents to take appropriate steps to protect the market area being Surjapur Hat and ensure that the local inhabitants and the villagers may peacefully continue their day to day activities over the said market and are not restrained by the illegal activities or constructions of the private respondents;

d) Writ or writs in the nature of Mandamus commanding the State respondents to consider the representation of your petitioners and to take all other steps for appropriate steps to protect the market area being Surjapur Hat and ensure that the local inhabitants and the villagers may peacefully continue their day to day activities over the said market and are not restrained by the illegal activities or constructions of the private respondents;

d) A writ in the nature of Certiorari commanding the respondents to transmit and certify the records of this case before this Hon'ble Court so that conscionable justice may be administered;

f) Rule NISI in terms of prayer (a), (b), (c), (d), (e) above;

g) Ad-interim order restraining the private respondents and/or any third party from carrying out any illegal or unauthorized construction on the land in question till disposal of the writ petition;

h) Costs and incidental charges thereto;

i) Any other order or orders as Your Lordships may deem fit and proper;”

3. In the instant writ petition the petitioner being the local villagers are running a market on a land being of an area 1.37 acres lying and situated under Mouza-Alipur, JL NO. 101, Touzi No. 249, R.S.Khatian No. 374 and 659, corresponding to L.R. Khatian No. 108, R.S. and L.R. Dag No. 1792, South 24 Parganas which originally belonged to one Sailendranath Roy Chowdhury who created a trust and devoted the land in question in the name of “Shree Shree Anondo Moyee Thakurani” prior to 1920.

4. The market in question is locally known as Surjapurhat which was set up mainly for the benefit and economic development of the surrounding area of a temple named as “Shree Shree Anondo Moyee Thakurani”(hereinafter referred to as the said temple).

5. The main grievance of the petitioners are that since the land in question exclusively belongs to the deity, the private respondents are trying to utilize the said market Surjapurhat for their personal and fraudulent gain. As a result of which the existence of the market as well as the normal functioning of the Seba Puja of the deity has been put at stake.

6. The petitioners earn their daily bread and butter from the said land. Therefore being aggrieved by the action of the private respondents who are trying to grab the land by way of erecting illegal constructions, and changing the nature of the character of the said land of the market in question the petitioners had made representations to the concerned authorities for taking appropriate steps to restrain the private respondents from carrying out any form of illegal/unauthorised construction by changing the nature and character of the land of the debutter property situated in the land in question.

7. Till date representations remained unconsidered by the authorities. Thus the instant PIL has been filed for appropriate orders for restraining the illegal construction by changing the user of the land in question.

8. The private respondents in course of hearing took up the issue of maintainability of the instant PIL. The learned counsel for the private respondents submits that the land in question is a property of a deity under a private charitable trust. It is also submitted that the petitioner has made an averment in paragraph 12 of the writ petition that the private respondents have illegally granted lease in favour of some other private respondent without

obtaining any permission from the learned District Judge at Alipur, since the issue is civil in nature the dispute in question cannot be agitated by filing a PIL for redressal.

9. Admittedly the land in question is not a revenue/Government land. The land is a property of a deity under a private charitable trust. Thus, writ petition (PIL) is not maintainable. Even otherwise, the argument of petitioner is that the villagers are using the said land of charitable trust for their marketing activities for several decades. This is purely a matter of evidence which can be proved before a Court of competent jurisdiction. The remedy (if any) lies under the Civil law. The PIL for these cumulative reasons is not maintainable.

10. Resultantly, the PIL is dismissed as not maintainable by reserving liberty to the petitioner to avail the remedy available to him under the law.

(SUJOY PAUL, J.)

(SMITA DAS DE, J.)