

18.08.2025
Item No.34
Ct. No.35
dc.

W.P.A. 18616 of 2025

**Yusuf Khan
versus
The State of West Bengal & Ors.**

Mr. Partha Sarathi Deb Barman,
Md. M. Nazar Chowdhury,
Ms. Priyanka Saha,
Ms. Farhan Rais ... For the Petitioner.

Mr. Suman Ghosh,
Mr. Alok Banerjee ... For the State.

Mr. Indrajit Bhattacharjee ... For the Respondent No.8.

Report dated 18.08.2025 submitted by the learned advocate appearing for the State be kept with the record.

Petitioner has approached this Court alleging that the private respondent no.8 in collusion with the police authorities has changed the nature and character of the shop premises in spite of there being a specific direction passed by the Executive Engineer on or about 28.04.2023. It has also been brought to the notice of this Court that the petitioner was falsely implicated in connection with criminal case being Ekbalpore P.S. Case No. 244 of 2025 wherein the learned court was pleased to release the petitioner on bail on the same date of production. Presently, the main grievance of the petitioner is to the extent of police authorities acting hand in gloves with the private respondents and to that effect, petitioner prays for steps to be taken against the police authorities.

Learned advocate appearing for the private respondent no.8, on the other hand, submits that the civil court is already in seisin of the issue. So far as the order dated 28.04.2023 passed by the Executive Engineer is concerned, an appeal was preferred before the Municipal Building Tribunal wherein the respondent no.8 was unsuccessful so far as the interim order is concerned. It is also contended on behalf of the private respondent no.8 that against the aforesaid order, a writ petition being WPA 527 of 2025 has been preferred before a coordinate Bench of this Hon'ble Court which is still pending.

State has submitted a report. It has been contended that there is a history of criminal cases so far as the present petitioner is concerned. To that effect, list of cases which have been enclosed are as follows :

- 1) Ekbalpore P.S. Case No. 273 dated 24.08.2012,
- 2) Ekbalpore P.S. Case No. 564 dated 06.10.2017,
- 3) Ekbalpore P.S. Case No. 14 dated 10.01.2019,
- 4) Ekbalpore P.S. Case No. 20 dated 20.01.2020,
- 5) Ekbalpore P.S. Case No. 363 dated 02.10.2024,
- 6) Ekbalpore P.S. Case No. 153 dated 23.04.2025,

7) Ekbalpore P.S. Case No. 244 dated 22.06.2025 and

8) Ekbalpore P.S. Case No. 246 dated 25.06.2025.

Learned advocate appearing for the State submits that the alteration or the repair or the additional construction was never the subject-matter of the issue. However, the police authorities have acted on the basis of a complaint which has been filed by the respondent no.8 for which Ekbalpore P.S. Case No. 244 of 2025 was registered for investigation.

There are two aspects of the case. First relating to the dispute between the petitioner and the private respondent no.8 so far as the shop room which is the subject-matter concerned and another relating to criminal case which has been registered while on the other hand, petitioner has complained that by using the powers of the police, illegally there has been addition and alteration in the shop premises.

On the other hand, learned advocate for the private respondent no.8 contends that there was an offence for which a complaint was filed before the police authorities. Consequent to which cognizable offence being made out and steps were taken by the police authorities.

Be that as it may, the prayers in the writ petition primarily are for taking steps against the

police authorities as well as the private respondent no.8.

So far as the police authorities are concerned, since Section 175(4) of BNSS, 2023 has been incorporated for taking steps against public servants and which requires adherence to certain provisions and/or steps before initiating any action against a public servant, petitioner would be at liberty to approach the jurisdictional Magistrate under the aforesaid provisions of law. Learned Magistrate will assess and ascertain the genuinity of the accusations and thereafter by adhering to the provisions of law, pass necessary directions.

So far as the other issues are concerned, since a separate writ petition is pending, I am of the view that interference by this Court is unwarranted.

With the aforesaid observations, the writ petition being WPA 18616 of 2025 is disposed of.

There will be no order as to costs.

All concerned parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

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

(Tirthankar Ghosh, J.)