

Form No. J(2)

In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present: The Hon'ble Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Uday Kumar

MAT No. 1317 of 2025
with
CAN 1 of 2025

Jayanta Mondal
Vs.
The State of West Bengal and Ors.

For the appellant	:	Mr. Rwitendra Banerjee, Mr. Shibasis Chatterjee, Mr. Sandip Kundu, Mr. Shivam Debnath ... Advs.
For the State respondents	:	Mr. Soumitra Bandyopadhyay, Ld. Sr. Govt. Adv. Mr. Anirban Sarkar ... Advs.
Heard on	:	04.09.2025
Judgment on	:	04.09.2025

Sabyasachi Bhattacharyya, J.:-

1. Affidavit of service filed today be kept on record.
2. The present challenge has been preferred against an order whereby the writ petition from which the appeal arises has been dismissed on the ground of maintainability, in view of the finding of the

- learned Single Judge that the writ petitioner/present appellant does not have *locus standi* to present the writ petition.
3. The brief facts of the case are that the private respondent, a neighbour of the appellant, is allegedly filling up a water body illegally. The appellant lodged a complaint with the appropriate authorities. It is alleged in the writ petition that despite such complaint, appropriate measures have not been taken against the respondent for the latter's attempts to unlawfully convert the water body and change its character.
 4. The learned Single Judge, while dismissing the writ petition, was pleased to observe *inter alia* that 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, and granted liberty to the writ petitioner, being a public spirited person, to approach the appropriate forum, apparently indicating a public interest litigation.
 5. Learned counsel for the appellant places reliance on an unreported Coordinate Bench judgment of this court in the matter of *MAT 930 of 2024 (M/s. Bangbhumi Realbuilders LLP)*, where, upon a detailed discussion of the law prevailing in the field, it was held that a complainant in respect of an illegal construction was entitled to maintain a writ petition, alleging inaction on the part of the authorities with regard to such unlawful construction, despite being merely a resident of the area.

6. Learned Senior Government Advocate submits that the remedy of the writ petitioner lies before the appropriate Division Bench by way of a public interest litigation at best. Insofar as the present allegation is concerned, the writ petitioner does not have *locus standi* to maintain the same.
7. Learned counsel appearing for the private respondent points out that even as per the Annexures to the stay application to the present appeal, a Tribunal application is pending where a similar relief has been claimed by the present appellant. As such, it is submitted that the writ petition was not maintainable in any event.
8. Upon a careful consideration of the judgment cited by the appellant, it is clear that the entire law in the field and the evolution of the law in respect of the *locus standi* to maintain a writ petition was discussed by the coordinate Bench.
9. It is well settled that the limited and restricted conspectus of *locus standi* has undergone a sea change by evolution of law and in the event a person residing in the locality comes to know of an illegal activity going on, which has public ramifications, such person has the right to bring such illegality to the notice of the writ court and obtain a relief.
10. In the cited report, it was *inter alia* discussed that the expression 'aggrieved person' denotes an elastic and elusive concept. It cannot be confined within the bounds of a rigid, exact and comprehensive

- definition. Its scope and meaning depends on diverse, variable factors such as the content and intent of the statute of which the contravention is alleged, the specific circumstances of the case, the nature and extent of the complainant's interest and the nature and extent of the prejudice or injuries suffered by the complainant.
11. It was held by the coordinate Bench further that since the writ petitioner therein was a resident of the concerned municipality, which was an undisputed position, he was entitled to raise a dispute regarding an unauthorized construction going on in the locality.
 12. In the present case, the learned Single Judge proceeded on the erroneous premise that 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 the alleged illegal filling is going on.
 13. The relief claimed in a proceeding has to be tied up with the nature of rights which form the foundation of such reliefs.
 14. The independent right, title or interest of the writ petitioner over the water body is not urged in the writ petition. It is not such right which has been claimed or sought to be vindicated before the writ court. In any event, if the writ petitioner claimed such a right, it would have to be canvassed before a competent civil court having jurisdiction. The reliefs sought in the writ petition are in respect of alleged illegal filling up of a water body by the private respondent.

The *locus standi* has to be linked to the cause of action. The cause of action in respect of the illegal conversion of a water body may or may not relate to the right, title or interest of the complainant with regard to the land which is sought to be filled up. What is to be seen is that the complainant resides in the vicinity of the premises where the illegal conversion is allegedly going on and that, even if tangentially, the complainant would be affected directly or indirectly by such illegal filling up.

15. The illegal conversion of a water body into land of a different character would not only be restricted to violation of municipal laws or affectation of rights of particular individuals but has much wider ramifications inasmuch as the ecosystem of the entire locality would be adversely affected, which would have a ripple effect in the other neighbourhoods in the vicinity as well.
16. As such, the cause of action of the writ petitioner need not necessarily be tied up with his right, title or interest in the property-in-question, but in respect of the said larger ramification of the alleged act of the private respondent. If the ecological balance of the area is disturbed, undoubtedly all residents of the locality have a vested interest in preventing such disturbance. Any act by which the balance in the ecosystem is disturbed infringes the right of each of the persons living in the vicinity to lead a quality life, thus tantamounting to the violation of the right to life guaranteed by the Constitution. As a corollary, such persons have

the *locus standi* to challenge such illegal act, not only on the anvil of violation of the municipal law but also on the ground of infringement of their fundamental right to life, thus rendering the dispute amenable to judicial review under Article 226 of the Constitution of India.

17. Viewed from such perspective, the restricted view taken by the learned Single Judge is *de hors* the law and contrary to the well-settled principles of law as rightly discussed in the matter of *M/s. Bangbhum Realbuilders LLP (supra)*.
18. Insofar as the objection of the private respondent relating to a different Tribunal application pending at the behest of the petitioner is concerned, the same is not germane, since the primary reliefs sought in the said application is in the context of a prayer for pre-emption under Sections 8 and 9 of the West Bengal Land Reforms Act, 1955 and the injunction sought in connection therewith is merely a consequential relief corollary to the primary relief.
19. Thus, the reliefs sought before the writ court in the present matter has neither been sought before the Tribunal nor can be granted by the Tribunal within the periphery of the pre-emption dispute pending before it. Furthermore, as pointed out by the appellant, the subject property involved in the Tribunal application is different from the property where the alleged conversion is going on.

20. Keeping in view the above perspectives, we find that the learned Single Judge erred in law in rejecting the writ petition at the threshold on the ground of maintainability on the erroneous assumption that the writ petitioner/present appellant has no *locus standi* to maintain the writ petition.
21. Accordingly, MAT 1317 of 2025 is allowed on contest, thereby setting aside the impugned judgment dated August 4, 2025 passed in WPA 15313 of 2025 and remanding the writ petition to the learned Single Judge having jurisdiction to decide the same on merits in accordance with law.
22. Consequentially, CAN 1 of 2025 stands disposed of as well.
23. There will be no order as to costs.
24. It is made clear that it will be open to the writ petitioner to pray for appropriate ad interim reliefs before the writ court.
25. Since we have not directed affidavits to be exchanged, it is deemed that none of the allegations made in CAN 1 of 2025 is admitted by any of the respondents.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Uday Kumar, J.)