

30.01.2025
Item Nos.9 &
198
gd/ssd

WPA(P)/435/2023
SITA RAM RAY
VS
STATE OF WEST BENGAL AND ORS.
with
WPA(P)/434/2023
NAZIR HOSSAIN
VS
STATE OF WEST BENGAL AND ORS.
IA NO: CAN/1/2024

Ms. Anamika Pandey,
Ms. Amrita Pandey,
Mr. Ghanshyam Pandey,
Ms. Bipasha Jaiswal

..for the Petitioner in
WPA(P) 435 of 2023.

Sk. Md. Galib,
Ms. Sujata Mukherjee

..for the State.

Mr. Kishore Datta, Id. Sr. Adv.
Mr. Gurudas Mitra,
Ms. Manisha Nath

..for KMC.

Mr. Soumik Ganguly,
Mr. Rohit Kumar Yadav

..for the Respondent No.11.

Ms. Susmita Dey (Basu)

..for the Respondent Nos. 12 to
14 in WPA(P) 435 of 2023.

1. By this public interest writ petition a very sad
state of affairs of a heritage site was brought to the
notice of this court.

2. Considering the seriousness of the allegations
and also that one of us (T. S. Sivagnanam, CJ) had
occasioned to visit the concerned area.

3. A direction was issued on 18th April, 2024 to the following effect:

“1. We have heard Ms. Amrita Pandey, learned advocate for the petitioner and the learned Senior Standing Counsel for the Government. Very recently one of us (T.S.S. CJ.) had an occasion to visit that area and found the area to be congested.

2. It is the definite case of the petitioner that several areas have been encroached and the heritage structures have been illegally demolished and multi-storied structures have been erected. Photographs have also been placed before this Court.

3. In order to have an unbiased assessment of the ground realities, we request Mr. Sk. Md. Galib, learned Senior Standing Counsel representing the State to make a surprise visit of the area and submit a report on the next hearing date.

4. The Court will consider the report and the submissions of the learned Senior Standing Counsel for the State Government and pass further orders in the matter.

5. If a police help is required, the same shall be provided by the South Port Police Station, Kolkata.

6. List this matter on 16th May, 2024 with W.P.A. (P) 434 of 2023.”

4. In terms of the said directions Mr. Galib, learned senior standing counsel representing the State had inspected the premises in question on three dates which were all surprise inspections, namely, on 24.4.2024, 27.4.2024 and 4.5.2024 by riding as a pillion in a motorbike.

5. The report shows that there is large scale encroachment of the historic Bhukailash Temple Complex which has been declared as a heritage site by

the Kolkata Municipal Corporation. There is also a pluck which has been placed highlighting the importance of the place and as to the amount of moneys spent by the Kolkata Municipal Corporation to renovate the Temple Complex. Along with the report several photographs have been enclosed which, prima facie, show that there is encroachment as well as unauthorized and illegal construction in utter disregard to all the relevant rules and regulations. Part of the Temple areas have also been converted into the parking area for parking lot of taxis.

6. The learned advocate for the respondent nos.12, 13 and 14, who are the Sebaitis of Bhukailash Debutter Estate, would contend that they are not encroachers.

7. We make it clear that we are not concerned about the Sebaitis, but we are concerned about the encroachments in the area of Rajbari Complex.

8. Since much has to be done in the matter, we requested Mr. Kishore Datta, learned senior advocate to mention as to which authority would be the appropriate authority to take necessary action and the reply was that the appropriate officer of the Kolkata Municipal Corporation has to take action.

9. In the light of the above, we direct the 6th respondent/the Director General, Building Department, Kolkata Municipal Corporation to direct the team of the

officers to inspect the entire area measuring Rajbari Temple Complex, direct the concerned authorities of the Land Reforms Department to be present during the inspection and after noting down the various encroachments and other physical features, appropriate action should be taken for removal of the encroachment and to ensure that the Rajbari area of the Temple Complex is preserved as such. From the photographs annexed to the report submitted by Mr. Galib, we find that fortunately the Rajbari Maidan area has not been encroached.

10. The Kolkata Municipal Corporation is directed to ensure that the compound wall in the gates of the Maidan area are in proper repair and necessary watch and ward can also be placed so that the Rajbari Maidan area is not encroached by unscrupulous elements. The authorities upon inspection shall issue notice to the encroacher and proceed to take action in accordance with law.

11. The direction be commenced and completed as expeditiously as possible preferably within a period of four months from the date of receipt of server copy of the order.

12. Before we place our sincere appreciation to Mr. Galib, learned senior standing counsel for having complied with the directions issued by this court and

conducted surprise inspection on three occasions that too by riding as a pillion in a two wheeler.

13. Needless to state that the authorities to the Kolkata Municipal Corporation should maintain strict vigil in the entire three areas, namely, Bhukailash Raj Bari, Bhukailash Temple and Bhukailash Maidan and no further construction shall be permitted unless and until it is permissible in accordance with law.

14. With the above observations and directions, the matter stands disposed of.

15. Since the relief sought for in WPA(P) 434 of 2023 is also identical, the above direction will also cover the said writ petition and the said writ petition also stands disposed of on the similar lines.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)