

Court No. 19
(265719)

13.11.2025
(AD 16)
(S. Banerjee)

WPA 20137 of 2025

Himanshu Mondal
Vs.
The State of West Bengal & Ors.

Mr. Robiul Islam
Mr. K. M. Hossain
Sk. Jayed Hossain

...for the petitioner

Mr. Chandi Charan De
Ms. Reshma Chatterjee

...for the State

Mr. Prasenjit Debnath
Mr. A. Sengupta

...for the respondent no. 9

The petitioner has filed this writ petition alleging that the private respondents have made an illegal and unauthorized construction on the PWD land and has prayed for a direction upon the authorities to act in terms of the provisions of the West Bengal Highways Act, 1964.

Learned advocate appearing for the respondent no. 9 submits that the petitioner filed a writ petition being WPA 15265 of 2025 on self-same allegation. Such writ petition was disposed of by an order dated July 28, 2025. He further submits that the mother of the petitioner filed Title Suit No. 75 of 2025 before the learned Civil Judge (Jr. Division), Nabadwip, Nadia on

more or less self-same allegations. He further submits that since the issue is pending before the civil court, this court may not entertain this writ petition.

Mr. De, learned Additional Government Pleader, submits that when the civil court is in session over the inter se private disputes between the parties, this court should not interfere under Article 226 of the Constitution of India.

In reply the learned advocate appearing for the petitioner submits that the suit was filed against the private parties and in the writ petition the allegation is that the PWD road has been encroached.

A copy of the order dated July 28, 2025 passed by a coordinate Bench in WPA 15265 of 2025 has been placed before this court by the learned advocate for the private respondent.

Upon going through the said order this court finds that it was submitted on behalf of the petitioner before the coordinate Bench on July 28, 2025 that sand and stone-chips which were stacked obstructing the ingress and egress of the petitioner, have already been removed.

Learned advocate appearing for the petitioner submits that after the stone-chips and other materials were removed, the private respondents have

again stacked the same thereby causing obstruction to the ingress and egress of the petitioner.

On a query of the court as to whether the fact of filing of the earlier writ petition and the removal of the building materials from the property of the petitioner has been disclosed in the writ petition, the learned advocate appearing for the petitioner, in his usual fairness, submits that such facts has not been stated in the writ petition.

In view thereof, this court is not inclined to accept the submission made from the Bar that after the private respondents have removed the building materials from their property, they have again stacked the same on the property in front of the property of the petitioner thereby obstructing the ingress and egress of the petitioner.

This court, therefore, holds that there is gross suppression of material facts in this writ petition for which this court may be justified in dismissing this writ petition with exemplary costs.

However, this court refrains from taking that recourse.

After going through the plaint of Title Suit No. 75 of 2025, this court finds that the mother of the writ petitioner, namely, Sandhya Mondal filed the title suit against Gopal Sarkar, who is the private

respondent herein, and the petitioner, namely, Himanshu Mondal and others have been impleaded as proforma defendants. In the said suit the plaintiff, i.e., Sandhya Mondal, the mother of the petitioner, has sought for a declaration that the defendant, i.e., the private respondent herein, has no right to keep sand and stone-chips or any other material in front of the scheduled property or in the schedule property by entering thereon forcibly, illegally and without due process of law.

From the averments made in the writ petition it appears to this court that the dispute between the private parties pertains to an immovable property for which the mother of the petitioner has approached the civil court.

For all the reasons as aforesaid, this court is not inclined to grant any relief to the petitioner. Accordingly, this writ petition stands dismissed.

It is, however, made clear that the observations made hereinbefore are only for the purpose of supporting the ultimate conclusion in this order and the same shall not prejudice the private parties before other forum.

(Hiranmay Bhattacharyya, J.)