

26.09.2025
Sl. No. 14
Ct No. 3
SG

WPA 20273 of 2025

**Basanti Roy Paul
Vs
The State of West Bengal & Ors.**

Mr. Satrajit Sinha Roy,
Mr. Tapan Roy.

...for the petitioner

Mr. Srijan Nayak,
Mr. Atish Biswas.

...for KMC

Ms. Debdooti Dutta,
Ms. Sonal Sinha.

...for the State

1. Affidavit-of-service is taken on record.
2. The petitioner has preferred the present writ petition being aggrieved by the inaction on the part of the respondent-Corporation in not taking any steps against the alleged illegal and unauthorized construction at premises no. B/4A/H/7, Roy Para Lane, Kolkata – 700050, said to have been carried out at the instance of private respondent nos. 15 to 34. The petitioner has also sought direction to restrain the said private respondents from interfering with the premises in question.
3. At the very outset, it is relevant to note that the petitioner had earlier preferred WPA (H) No. 44 of 2025 alleging that her mother, Smt. Purnima Biswas, who is the owner of the premises in question had gone missing.

This Court vide order dated 06.08.2025 passed the following orders.

“The matter first came up for hearing before this Court on 18th June, 2025 when Mr. Mukherjee, learned Additional Public Prosecutor appearing for the State submitted that Purnima appeared before the officer concerned at Sinthi Police Station and stated she was residing at Post Office-Bediapara, Police Station –Dum Dum, Kolkata-700077. The documents produced in support of such contention were kept on record and the matter was made returnable on 16th July, 2025. On the said date, Purnima and Biswajit were present in Court and they submitted that they were being tortured by Mr. Tapan Roy Paul (in short, Tapan) being, the husband of Basanti. On the said date, Basanti was also personally present before this Court and she submitted that she had been forced to file the writ petition by Tapan. She apprised this Court that she is residing along with her two sons at her maternal uncle’s house. Tapan was also present before this Court on the said date and he submitted that he would affirm an undertaking that henceforth he will neither threaten nor disturb Purnima, Biswajit and Basanti in any manner whatsoever.

Upon hearing the learned advocates, this Court on 16th July, 2025 directing the Officer-in-Charge, Nagerbazar Police Station under whose jurisdiction 2 Purnima is residing and the Officer-in-Charge, Sinthi Police Station under whose jurisdiction Basanti is residing, would ensure that no physical harm is caused to them and the matter was made returnable on 23rd July, 2025.

On the said date, the matter was adjourned and today, it has come up for hearing. Surprisingly, today Basanti, who is present in Court, submits that her mother, namely, Purnima has been illegally detained by the private respondents, who happen to be the developers and that, a complaint to that effect had already been lodged. Such submission of Basanti is totally different from what she submitted before this Court on 16th July, 2025.

Mr. Mukherjee, learned Additional Public Prosecutor appearing for the State respondents submits that Purnima and Biswajit have themselves appeared before this Court personally and submitted that they were residing at 1144/2, R.N. Tagore Road, Police Station – Nagerbazar, Kolkata-700077 and that they had, in fact, been tortured by Tapan.

Mr. Chatterjee, learned advocate appearing for the private respondent nos. 9, 11, 13, 21 and 22 denies and disputes the contention of Basanti and submits that the allegations levelled against them are absolutely unfounded.

From the records it would thus reveal that there is a dispute between the parties inter se. Pursuant to our

earlier direction, Tapan is present before this Court and he has filed an affidavit-of-undertaking stating, inter alia, that he had not threatened Purnima, Biswajit and Basanti and shall not threaten them in future. Let the said affidavit, as produced, be kept on record.

Basanti alleged that Purnima is missing. However, Purnima herself appeared before this Court and submitted that she is residing along with her son Biswajit at the address stated above. In view thereof, this is not a case of illegal detention. Serious allegations and counter allegations have been made by the parties and as regards such dispute complaints have been registered and investigation is in progress.

A writ in the nature of habeas corpus is a prerogative writ by virtue of which the causes and validity of detention of a person are investigated by a summary procedure. This Court in exercise of its jurisdiction cannot usurp the ordinary administration of criminal justice. In view thereof, no further interference is called for in the present writ petition and the connected application. Accordingly, the same are dismissed.

Nothing herein shall, however, prevent Basanti from initiating appropriate proceedings before any other forum seeking relief, according to law."

4. Pursuant to the liberty granted by the Hon'ble Division Bench in the aforesaid matter, the petitioner has now preferred the present writ petition.

5. From the reading of the pleadings, it appears that there exists a title dispute concerning the premises in question between the petitioner's mother and other co-owners. It is further the allegation of the petitioner that her mother was abducted by the private respondents. The records also reveal that the petitioner's mother had earlier instituted a writ petition being WPA 13506 of 2025, challenging the unauthorized construction at the said premises at the behest of the private respondents. Subsequently, she addressed a letter to the Hon'ble Chief Justice of this Court stating that she had been compelled by the petitioner's husband to file the said

writ petition, that she was subjected to harassment and that she was no longer interested in pursuing the said litigation. In view of such communication, the said writ petition was dismissed as withdrawn.

6. From the materials placed before this Court, it is evident that the present writ petition is not a bona fide attempt to address the issue of unauthorized construction, but rather an endeavour by the petitioner to ventilate her personal and family disputes under the guise of public law remedy. The pleading discloses that there is already a pending dispute regarding the title and ownership of the premises in question between the petitioner's mother and other co-owners, which falls squarely within the jurisdiction of the civil court. Further, the earlier conduct of the petitioner's mother, who first instituted a writ petition and thereafter expressed her unwillingness to pursue the litigation and withdraw the same upon her own volition, casts serious doubt on the bona fides of the present proceedings.

7. This Court is constrained to observe that the extraordinary remedy under Article 226 of the Constitution of India cannot be invoked as of a tool to settle personal scores or to re-agitate issues already abandoned by the rightful owner of the property. Such an abuse of the process of law not only burdens the

judicial system but also detracts the genuine litigants seeking relief.

8. Accordingly, the writ petition stands dismissed with a costs of Rs. 5,000/- (Rupees Five Thousand only), to be deposited by the petitioner with the West Bengal State Legal Services Authority within a period of four weeks from the date of this order.

9. Let urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with usual formalities.

(Gaurang Kanth, J.)