

S/L 10
26.09.2025
Court. No. 19
Sourav

WPA 21583 of 2025

**Debabrata Pal & Anr.
Vs.
State of West Bengal & Ors.**

*Mr. Dilip Kumar Samanta
Mr. Debapriaya Samanta
Mr. Suhatro Palit
Mr. Akash Kumar Chakrabarty
Ms. Riya Saha*

...for the petitioners.

*Mr. Sirsanya Bandapadhyay, Ld. Sr. Standing Counsel
Ms. Tapati Samanta*

...for the State.

Mr. Falguni Majhi

...for the respondent nos. 2 to 4 and 5.

*Mr. Amit Kumar Nag
Mr. Swarajit Dey
Mr. Saptarshi Kar*

...for the respondent nos. 6 and 7.

1. The affidavit-of-service as filed on behalf of the writ petitioners is taken on record.
2. The writ petitioner, the respondent/State and its instrumentalities, the respondent/Burdwan Development Authority (hereinafter referred to as 'BWA', in short) and the private respondent nos. 6 and 7 are represented by their respective learned advocates.
3. The subject matter of challenge in the instant writ petition is the memo dated 07.07.2025 issued by the respondent no. 5/authority addressed to the writ petitioners whereby and whereunder the respondent no. 5/authority declined to grant permission for development of residential use of R.S. Plot No. 121/529, 123 and L.R. Plot No. 121/529, 123 in Mouza –

Katrapota on account of non-conversion of the said two plots of land from 'pukur' to 'township'.

4. For effective adjudication of the instant writ petition some admitted facts are required to be dealt with in a nutshell and those are as under:
 - i) For the purpose of development of a satellite township under the BDA, a registered deed of lease dated 27.08.2010 was executed between the BDA and the private respondents.
 - ii) The basic purpose for execution of the said registered deed of lease was for promotion of a project for construction and development of a satellite township.
 - iii) One of the clauses of the said registered deed of lease dated 27.08.2010, permits the private respondents (the original lessee) to assign, sublease or sublet the project land or any part thereof by executing a deed of assignment and upon such execution of deed of assignment the assignee would become lessee directly under the original lessor i.e., the BDA.
 - iv) The said original deed of lease dated 27.08.2010 contains a schedule of the plots of land, however, for the present *lis* we are concerned about R.S and L.R. plot no. 123 and 121/529 which were shown as 'Sali' in the original deed of lease dated 27.08.2010.
 - v) Subsequently, by a registered deed of assignment dated 15.01.2018, the private respondents

transferred the aforementioned two plots of land in favour of the writ petitioners measuring about 1.96 cottahs and 0.47 cottahs respectively.

- vi) The writ petitioners upon execution of the said registered deed of assignment approached the BDA for granting permission for development for their residential purpose.
 - vii) By issuing the impugned order dated 07.07.2025, the BDA declined to grant such permission.
5. In course of hearing, Mr. Samanta, learned advocate appearing on behalf of the writ petitioners at the very outset draws attention of this Court to Page No. 100 of the instant writ petition being a query slip which is required to be presented at the time of registration of the deed of assignment. It is argued by Mr. Samanta that from the said query slip, it would reveal that the assigned two plots have been described as 'bastu' and, therefore, the BDA is not justified in issuing the impugned memo dated 07.07.2025 declining permission as prayed for on the plea that conversion of the aforementioned two assigned plots have not been done.
 6. It is submitted by Mr. Samanta that since the private respondents have assigned the said two plots of land showing them as 'bastu' there cannot be any justification on the part of the BDA to hold that the proposed conversions are yet to be done. It is thus submitted by Mr. Samanta that it is a fit case for quashing of the memo under challenge dated 07.07.2025. It is further contended that it is a fit case for issuance of appropriate

writ/writs against the BDA and its instrumentalities to accord permission to the writ petitioners for residential use of the said two assigned plots of land.

7. Such contention is, however, opposed by Mr. Nag by saying that from the original deed of lease, it would reveal that the assigned plots of land were recorded as 'Sali' and nowhere in the subsequent registered deed of assignment it was indicated that prior to execution of the said deed of assignment dated 15.01.2018 the nature of the said two assigned land has been converted from 'Sali' to 'Bastu'.
8. Placing his reliance upon Page No. 100 of the instant writ petition, it is submitted that in the query form, it has been indicated by the presenter who is one of the writ petitioners herein that at the time of registration of the deed of assignment, the nature of the land covered under the deed of assignment was 'Sali' which was proposed to be used as 'bastu'. It is submitted by Mr. Nag that by no stretch of imagination the deed of assignment was executed showing the said two plots of land as 'bastu' as wrongly contended on behalf of the writ petitioner.
9. Mr. Majhi, learned advocate appearing on behalf of the BDA at the very outset raises the maintainability of the instant writ petition.
10. Drawing attention to Section 46 of the West Bengal Town and Country (Planning and Development) Act, 1979 (hereinafter referred to as 'the said Act' in short) it is submitted by Mr. Majhi that permission for

development is accorded by the competent authority under Section 46 of the said Act of 1979 and in case of refusal to accord such permission, the remedy lies to the aggrieved person to prefer an appeal under Section 47 of the said Act of 1979.

11. It is thus submitted by Mr. Majhi that in view of the availability of the alternative efficacious statutory remedy and in view of the fact that the writ petitioners have miserably failed to make out a case for obtaining a relief by exercising writ jurisdiction of this Court the instant writ petition is liable to be rejected.
12. Ms. Samanta, learned advocate appearing on behalf of the State adopted the submission of Mr. Majhi.
13. This Court has carefully perused the entire materials as placed before this Court. This Court has given its due consideration over the submissions of the contending parties.
14. For effective adjudication of the instant writ petition, this Court at the very outset proposes to look to Sections 46 & 47 of the said Act of 1979 which is quoted hereinbelow:-

“46. Permission for development.

(1) Any person or body (excluding a department of the Central or the State Government or any local authority) intending to carrying out any development or township project on any land shall make an application in writing to the Planning Authority or Development Authority for permission in such form and containing such particulars and accompanied by such documents and plans as may be prescribed.

- (2)
- (3).....
- (4)
- (5)
- (6)
- (7)

47. Appeal against grant of permission subject to conditions or refusal of permission. – (1) Any applicant aggrieved by an order passed under section 46, or if no order is passed under that section, may appeal, within one month of the communication of that order to him or after the expiry of the period of three months from the date of submitting the application, as the case may be, in the manner and accompanied by such fees as may be prescribed, to the State Government or any officer of the State Government appointed in this behalf.

(2) The State Government or the said officer, on receiving the appeal and after giving a reasonable opportunity of hearing to the appellant and the concerned authority, may dismiss the appeal or allow the appeal and pass order –

- (a) granting permission unconditionally; or
- (b) granting permission subject to such conditions as may be considered fit; or
- (c) removing the conditions subject to which permission has been granted and imposing other conditions, if any, as may be considered fit.”

15. On perusal of the aforementioned two legislative provisions, it thus appears to this Court that it is the legislative mandate that a person who desires to carry out any development in a township project he shall have

to make an application in writing to the development authority as per the mode prescribed. Section 47 of the said Act of 1979 mandates that in the event any applicant is aggrieved by an order passed under Section 46 his remedy lies to prefer an appeal under Section 47 before the appropriate authority.

16. Keeping in mind the aforementioned legislative provisions, as I look to the impugned memo dated 07.07.2025 as issued by the respondent no. 5/authority, it reveals that the said authority practically declined to accord permission for development as prayed for by the writ petitioners under Section 46 until conversion of the plots have been done. It thus appears to this Court that such memo was issued by the respondent no. 4/authority in terms of the provisions of Section 46 of the said Act of 1979.
17. As rightly pointed out by Mr. Majhi that such an order is an appealable one.
18. On careful perusal of the entire materials as placed before this Court it appears that the writ petitioners have miserably failed to make out a case as to why the writ petitioners despite availability of the statutory efficacious alternative remedy has approached this writ Court for exercising high prerogative writ jurisdiction of this Court especially when no case has been made out by the writ petitioners that the impugned memo has been issued by an authority who is not authorized to issue it

and/or prior to issuing the memo under challenge the principles of natural justice has not been followed.

19. In view of such, this Court holds that the instant writ petition is not maintainable.
20. For the sake of argument, even if, this Court holds that the instant writ petition is otherwise maintainable, this Court finds that the instant writ petition is devoid of any merit.
21. As rightly pointed out by Mr. Nag that in the registered deed of assignment as has been executed by the private respondents in favour of the writ petitioners nowhere it has been indicated that the scheduled mentioned property of the said registered deed assignment is/are in the nature of 'bastu'. As rightly pointed out by Mr. Nag that in the query form as available in Page no.100 of the instant writ petition, the writ petitioners being the presenters have also indicated that the assigned lands are 'Sali' in nature and they propose to use the same as 'bastu'.
22. It is thus preposterous to suggest that the writ petitioners were misled by the private respondents while executing and registering the registered deed of assignment at that material time the said two plots of land have converted from 'Sali' to 'bastu'.
23. In view of the discussions made hereinabove, this Court finds no merit in the instant writ petition.

24. With the aforementioned observations, the instant writ petition being **WPA 21583 of 2025** is dismissed.
25. There shall be, however, no order as to costs.
26. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)