

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Partha Sarathi Sen

WPA 23065 of 2024

With

CAN 2 of 2024

Suvendu Dubey

Vs.

The State of West Bengal & Ors.

With

WPA 24582 of 2024

Abdul Hai & Ors.

Vs.

The State of West Bengal & Ors.

For the petitioner in WPA 23065 of 2024	: Mr. B. N. Ray Ms. Shetparna Ray
For the petitioners WPA 24582 of 2024	: Mr. Md. Nauroz Rahber Mr. Muhammad Jawwad Ms. Shahin Parveen
For the State in WPA 23065 of 2024	: Mr. Chandi Charan De, AGP Mr. Anirban Sarkar
For the State in WPA 24582 of 2024	: Mr. Soumitra Bandyopadhyay Ms. Suchana Banerjee
Heard on	: 16.09.2025
Judgment on	: 16.09.2025

PARTHA SARATHI SEN, J.:

1. Since in WPA 23065 of 2024 and in WPA 24582 of 2024 the subject matter of challenge is identical the instant two writ petitions are tagged together and for the self-same reason, this Court proposes to dispose of the instant two writ petitions by a common judgment.
2. By filing WPA 23065 of 2024 the writ petitioner has prayed for issuance of appropriate writ/writs against the respondents/authorities more specifically against the respondent no. 4/authority commanding him to set aside the order dated 18.06.2024 as passed by the respondent no. 4/authority pursuant to an order dated 22.05.2024 as passed by a co-ordinate Bench of this Court in WPA 11772 of 2024 (Suvendu Dubey vs The State of West Bengal & Ors.).
3. In WPA 24582 of 2024 the writ petitioners have also prayed for similar reliefs.
4. At the time of hearing, Mr. Ray learned advocate appearing on behalf of the writ petitioner in WPA 23065 of 2024 that is Suvendu Dubey at the very outset draws attention of this Court to paragraph no. 2 of WPA 23065 of 2024. It is submitted by Mr. Ray that it is the specific case of the writ petitioner, Suvendu Dubey in WPA 23065 of 2024 that he is the absolute owner of the L.R. plot nos. 326, 328, 329, 339, 340, 341, 347 and 348 under Mouza – Uttar Rampur, P.S. – Chakulia, District – Uttar Dinajpur.

5. It is further contended that it is the further case of the writ petitioner that the aforementioned plots of land are now recorded in the name of the writ petitioner that is Suvendu Dubey and the said Suvendu Dubey is in lawful occupation of the aforementioned plots of land. It is further argued by Mr. Ray that some undesirable persons of the society who are the petitioners in WPA 24582 of 2024 and/or their associates made an attempt to encroach the aforementioned plots of land of the writ petitioner, Suvendu Dubey and they have also made an effort to create a pathway over the aforementioned land of the writ petitioner.
6. It is further argued that it is the further case of the writ petitioner that finding no other alternative the writ petitioner approached various State/authorities for ventilating his grievance and since the grievance of the Suvendu Dubey was not entertained, the said Suvendu Dubey had to approach this High Court by filing WPA 11772 of 2024 wherein a co-ordinate Bench of this Court by its order dated 22.05.2024 directed the respondent no. 4/authority to consider the representation of the writ petitioner in accordance with law.
7. At this juncture, Mr. Ray took me to the order dated 18.06.2024 as passed by the respondent no. 4/authority a copy of which has been annexed at page nos. 98 and 99 in WPA 23065 of 2024. It is submitted by Mr. Ray that the respondent no. 4/authority while

considering the representation of the writ petitioner in course of hearing came to a specific finding that the aforementioned L.R. plot numbers are recorded in the name of the writ petitioner and the writ petitioner, Suvendu Dubey is in settled possession of the same. It is further argued by Mr. Ray that by the self-same order dated 18.06.2024 the respondent no. 4/authority most surprisingly came to a finding that there exists an urban pathway across the aforementioned land of the writ petitioner which is being used by the villagers of Uttar Rampur village.

8. It is submitted by Mr. Ray that such finding of the respondent no. 4/authority is completely faulty inasmuch as at no material time the writ petitioner's aforementioned land was used as a pathway by the villagers. On the contrary it is the case of the writ petitioner, Suvendu Dubey that after deletion of the names of 'Bargadar' under Section 20B of the West Bengal Land Reforms Act, 1955 some co-villagers who are the writ petitioners in WPA 24582 of 2024 and/or their associates forcefully entered into the aforementioned property of the writ petitioner and dumped huge quantity of mud to show that a portion of the aforementioned property is being used as a pathway.
9. It is thus submitted by Mr. Ray that appropriate relief/reliefs may be given to the writ petitioner in terms of the prayers made in the instant writ petition.

10. In course of his submission, Mr. Rahber, learned advocate appearing on behalf of the writ petitioners in WPA 24582 of 2024 contended that the finding of the respondent no. 4/authority in WPA 23065 of 2024 vide its order dated 18.06.2024 is absolutely faulty inasmuch as from the materials as placed before this Court in WPA 24582 of 2024, it would reveal that there exists a village pathway over the aforementioned plot of land for a considerable length of time. It is this submitted by Mr. Rahber that the order dated 18.06.2024 as passed by the jurisdictional District Magistrate that is in WPA 23065 of 2024 may be set aside.
11. On being asked by this Court, Mr. Rahbaer, however, could not substantiate by filing any document whatsoever as to how the writ petitioners in WPA 24582 of 2024 have got a right of user of alleged pathway over the property of the writ petitioner. On being asked further by this Court, Mr. Rahber could not produce any document of title of the writ petitioners in WPA 24582 of 2024 over the property of Suvendu Dubey nor he could produce anything to substantiate that the writ petitioners in WPA 24582 of 2024 have even an easement right of pathway over the property of the writ petitioner in WPA 23065 of 2024 i.e., Suvendu Dubey. In fact, in WPA 24582 of 2024, there is no pleading to that effect.
12. Learned advocates appearing on behalf of the respondent/State and its instrumentalities submit before this Court that in absence

of any material irregularity in the order dated 18.06.2024 as passed by the jurisdictional District Magistrate, there is hardly scope to allow the instant two writ petitions.

13. On careful consideration of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, it appears to this Court that the writ petitioner, Suwendu Dubey in WPA 23065 of 2024 is successful in showing that he is the absolute owner of the plots of land particulars of which have been mentioned in paragraph no. 2 of WPA 23065 of 2024. As rightly pointed out by Mr. Ray that in the order under challenge dated 18.06.2024 as passed by the respondent no. 4/authority, the said respondent no. 4/authority practically admitted the right, title, interest and settled possession of the writ petitioner, Suwendu Dubey in respect of L.R. Plot Nos. 326, 328, 329, 339, 340, 341, 347 and 348 under Mouza – Uttar Rampur, P.S. Chakulia, Uttar Dinajpur.
14. This Court is really astonished that as to how the respondent no. 4/authority being the jurisdictional District Magistrate came to a finding that for a considerable length of time a portion of the said plots of land has been used by the local villagers as their pathway.
15. Coming to the factual aspects of WPA 24582 of 2024, it reveals that it is the case of the writ petitioners of WPA 24582 of 2024 that the writ petitioners are residing in the nearby area for a considerable

length of time and the writ petitioners and/or their associates are using the land of the writ petitioner for approaching to the main road i.e., Rampur Chakulia bypass road. As already observed by this Court that in WPA 24582 of 2024, the writ petitioners have made no averment in which capacity they are using the said plots of land as pathway.

16. In course of his submission, Mr. Ray, learned advocate appearing in WPA 23065 of 2024 disputed the contention of Mr. Rahber by saying that after deleting the names of the bargadars from the aforementioned plots of land, the writ petitioners in WPA 24582 of 2024 accumulated huge quantity of mud which would be evident from the Page Nos. 23 and 24 of CAN 2 of 2024, being a copy of the report dated 11.10.2023 as submitted by the I.C., Chakulia P.S. with the S.P., Islampur Police District.
17. On careful perusal of the report dated 11.10.2023 as prepared by the I.C. Chakulia P.S., this Court finds sufficient justification in the submission of Mr. Roy inasmuch as from the said report, it would reveal that under the leadership of MLA, Chakulia A.C. local people entered into the writ petitioner Suvendu Dubey's land and dumped mud which tantamounts to violation of the writ petitioner's constitutional right to property under Article 300A of the Constitution of India.

18. In view of such, this Court while disposing the instant two writ petitions directs the jurisdictional District Magistrate i.e., the respondent no. 4/authority in WPA 23065 of 2024 to take appropriate steps for removal of all dumped mud from the aforementioned land of the writ petitioner, Suvendu Dubey within 45 working days from the date of communication of the server copy of this order and the cost of such removal of such mud are to be recovered from the writ petitioners in WPA 24582 of 2024 within 30 days thereafter.
19. In the event, the writ petitioners in WPA 24582 of 2024 do not pay the cost as would be assessed by the respondent no. 4/authority within seven days from making of demand by the jurisdictional District Magistrate, the aforementioned amount shall have to be recovered from the writ petitioners in WPA 24582 of 2024 by initiating certificate proceeding.
20. Since the writ petitioners in WPA 24582 of 2024 have approached this Court for exercising high prerogative writ jurisdiction of this Court on a flimsy ground having no right, title and interest over the property of the writ petitioner, Suvendu Dubey in WPA 23065 of 2024, this Court imposes a cost of Rs. 5,00,000/- each upon the writ petitioners in WPA 24582 of 2024, the half of which shall have to be paid to the writ petitioner, Suvendu Dubey within 30 days from today and the remaining portion shall have to be deposited

also within 30 days with the office of the State Legal Services Authority.

21. The Member Secretary, State Legal Services Authority is directed to credit the said sum in the Victim Compensation Scheme.
22. In the event, the cost as imposed by this Court is not paid within the specified time as fixed by this Court, liberty is given to the writ petitioner, Suvendu Dubey to approach this Court in contempt.
23. The respondent nos. 5, 6 and 9 of WPA 23065 of 2024 are hereby directed to ensure that no attempt is made by any person including the writ petitioners in WPA 24582 of 2024 for using the aforementioned plots of land belonging to the writ petitioner as and by way of pathway.
24. With the aforementioned observations, the instant two writ petitions being **WPA 23065 of 2024** and **WPA 24582 of 2024** are disposed of.
25. In view of the disposal of the instant two writ petitions, the pending interlocutory application being **CAN 2 of 2024** as filed in connection with WPA 23065 of 2024 is also disposed of.
26. Liberty is given to the learned advocate on record for the writ petitioner, Suvendu Dubey in WPA 23065 of 2024 to communicate the server copy of this order to the respondent nos. 4, 5, 6 and 9/authorities forthwith.

27. Respondent nos. 4, 5, 6 and 9 are directed to act on the basis of the server copies of this order.
28. Department is directed forward a copy of this judgment to the Member Secretary, State Legal Services Authority, West Bengal forthwith.
29. 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.)