

24.06.2025
Sl. No. 37
Ct No. 3
SG

WPA 23551 of 2024

**Saiyad Lalu & Anr.
Vs
The State of West Bengal & Ors.**

Mr. Prasad Bhattacharyya,
Ms. Shravani Ghosh.

...for the petitioners

Mr. Alok Kr. Ghosh,
Mr. Fazlul Haque.

...for the KMC

Ms. Parna Roy Choudhury.

...for the State

1. The petitioners have instituted the present writ petition under Article 226 of the Constitution of India, aggrieved by the alleged inaction of the respondent-Kolkata Municipal Corporation in removing purported unauthorized construction activities allegedly undertaken by respondent nos. 6 to 8 at premises no. 529, Gopal Mishra Road, falling within Ward No. 129 of the Kolkata Municipal Corporation. The petitioners contend that the respondents have willfully failed to comply with the directions issued by this Hon'ble Court on 16.09.2022 in WPA 19551 of 2021.

2. This petition marks the second round of litigation concerning the same issue. In the earlier proceedings, a coordinate Bench of this Court directed the Executive Engineer (Building) of the Corporation to dispose of the petitioners'

representation by passing a reasoned and speaking order.

3. Pursuant to the said direction, the Respondent Municipality convened a hearing on 24.07.2023, during which the concerned Executive Engineer (Civil) opined that a joint site inspection by the Assistant Engineer was necessary to arrive at a conclusive decision as the private Respondents appeared in the hearing and submitted that they had constructed a G+3 storied building at Premises No. 489, Gopal Mishra Road, Ward No. 129, Borough XIV, and denied any connection with Premises No. 529, Gopal Mishra Road (Sen Pally). In view of the said stand taken by the private respondents, the Respondent Municipality decided to conduct a joint inspection with the assessment department and all the concerned. However, despite the considerable passage of time, no such joint inspection has been conducted, and the matter remains unresolved. Hence, the Petitioner has been constrained to file the present writ petition.

4. Thereafter, by an order dated 22.04.2025, this Court directed the Corporation to verify and ascertain the precise location of the subject premises and identify the individuals responsible for the alleged unauthorized construction. In compliance with such direction, a joint inspection was carried out, and a

report dated 06.05.2025 was filed by the Corporation. As per the report, the original premises bearing no. 529, Gopal Mishra Road originally comprised a total land area of 8 cottahs and 7 chattacks. However, the property was subsequently subdivided and mutated, resulting in new holding numbers 529A, 529B, 529C, 529D, 529E, etc. The portion currently retaining the original number 529 comprises only 1 cottah and 6 chattacks, and it is reported that only a temporary RT shed has been constructed thereon by one Hamida Bibi. The report categorically affirms that no unauthorized construction exists at the site presently bearing no. 529, Gopal Mishra Road.

5. Learned Counsel for the petitioners has submitted that the petitioners are uneducated laypersons who filed the present petition under the mistaken belief that unauthorized construction was occurring at premises no. 529, without possessing accurate information regarding the actual location of the alleged construction.

6. The private respondents, i.e., respondent nos. 6 to 8, have entered appearance before this Court on 22.04.2025 and submitted that they are not necessary or proper parties to the present proceedings. They clarify that the construction undertaken by them pertains to a different property

altogether namely, premises no. 489, Gopal Mishra Road which was carried out pursuant to a sanctioned building plan bearing no. 2019120326 dated 06.02.2020. They deny any involvement with the property bearing no. 529, Gopal Mishra Road, which is the subject matter of the present writ petition. Hence this Court vide order dated 22.04.2025 deleted the private Respondent No. 6 to 8 from the array of parties. The Petitioner neither raised any objection qua the said deletion nor challenged the said order dated 22.04.2025.

7. In light of the findings of the inspection report and the submissions of the private respondents, it is evident that the petitioners instituted the present proceedings without conducting proper verification of the relevant facts. The petition appears to have unnecessarily implicated individuals who have no connection with the subject premises, thereby subjecting them to unwarranted litigation. This conduct amounts to an abuse of the process of this Court.

8. It has further been brought to the notice of this Court that civil proceedings are already pending between the petitioners and the alleged parties concerning the property in question. The petitioners

also assert ownership rights over the disputed premises.

9. The sequence of events and the assertions made clearly indicate that the petitioners have attempted to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India to resolve private property disputes, under the garb of raising allegations of unauthorized construction. Such a course of action is impermissible in law. The petitioners have failed to approach this Court with clean hands. The instant writ petition is wholly devoid of merit, frivolous in nature, and appears to have been filed with an ulterior motive of harassing private individuals.

10. In view of the above, the writ petition stands dismissed with exemplary costs assessed at Rs. 10,000/- to be deposited with the West Bengal State Legal Services Authority within four weeks from date.

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

(Gaurang Kanth, J.)