

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side**

Ct.551 **19.12.25**

Item No.12 Sws.M

WPA 27076 of 2025

**Subrata Malakar
Vs
State of West Bengal & Ors.**

Mr. Nikhil Kumar Gupta
Ms. Laboni Bar
Ms. Doyel Mondal
...for the petitioner

Mr. Subhabrata Das
...for the State

1. This writ petition seeks issuance *inter alia* of a writ of mandamus commanding the respondent authorities not to take any coercive steps against your petitioner inherited from his late father the original raiyat in connection with the land measuring about 0.4375 acres under Mouza – Beldanga, J.L. No. 51, nature of land Aush, in the District Murshidabad by the respondent authorities till disposal of the writ petition.
2. It appears that in a proceeding initiated under Section 3 of the West Bengal Public Land (Eviction of Unauthorised Occupants) Act, 1962, an order was passed against the petitioner on September 11, 2025. Assailing such order, the petitioner approached this Court by filing WPA 23379 of 2025. The said writ petition (WPA 23379 of 2025) was dismissed by this Court by an order dated September 26, 2025 observing that the petitioner

had an efficacious alternative remedy before the appellate authority in terms of Section 7 of the said Act of 1962. Upon this Court refusing to entertain the aforesaid writ petition, the petitioner has approached the appellate authority by way of an appeal under Section 7 of the said Act of 1962. Such appeal is pending.

3. It is submitted by learned advocate appearing for the petitioner that during pendency of the writ petition, the petitioner had received a notice dated November 27, 2025 whereby the appellate authority, i.e., the District Magistrate and Collector, Murshidabad had called the petitioner for hearing in respect of the said appeal. It is further submitted that although hearing in terms of the said notice took place on December 8, 2025, yet, no order has been passed in such appeal till date. In support of his such submission, learned advocate appearing for the petitioner has handed up to Court a copy of a notice of hearing in connection with Appeal No. 04 of 2025 bearing Memo No. 266/H.C/En. dated November 27, 2025 issued by the District Magistrate and Collector, Murshidabad. Such notice is taken on record. Copy of such notice has also been handed over to learned advocate for the State.
4. Learned advocate appearing for the petitioner further submits that while the petitioner's appeal is

pending consideration and awaiting order from the appellate authority, the respondent / Executive Officer, Beldanga Municipality has proceeded to implement the order dated September 11, 2025 passed by the Sub-Divisional Magistrate, Berhampore Sadar, Murshidabad and has issued a letter dated November 25, 2025, stating that “*all encroachments and unauthorised structures must be removed by the occupants before 10.12.2025, without fail*”. A copy of such letter is handed up to Court. The same is taken on record. Copy thereof has also been supplied to the learned Advocate for the State.

5. The petitioner submits that if the order impugned before the appellate authority is implemented prior to the petitioner’s appeal being decided, the petitioner’s appeal would become meaningless.
6. Heard learned advocates appearing for the respective parties and considered the material on record.
7. Since it appears from the documents handed up to Court that the petitioner’s appeal is pending before the appellate authority and since it has been submitted that the appellate authority has heard the petitioner’s appeal on December 8, 2025, therefore it would be proper to grant liberty to the petitioner to approach the appellate authority for seeking appropriate interim relief of stay of implementation of the order dated September 11, 2025 passed by the

Sub Divisional Magistrate, Behrampore Sadar, Murshidabad which has been impugned before the appellate authority, till such time the appeal of the petitioner is finally decided. If the petitioner so approaches, the appellate authority is requested to consider the petitioner's prayer for interim relief in the nature of stay of the impugned order in accordance with law at the earliest.

8. It is made clear that this Court has not gone into the merits of the petitioner's case and all points including the point as regards grant of interim order of stay, are left open to be decided by the appellate authority, i.e., the District Magistrate and Collector, Murshidabad independently, strictly in accordance with law.
9. WPA 27076 of 2025 stands disposed with the aforesaid observations. No costs.
10. Urgent photostat certified copy of this order, if applied for, be supplied to the parties on urgent basis after completion of necessary formalities.

(Om Narayan Rai , J.)