

**599 18.12.
2025**

**Ct. No.
551**

Ab

WPA 28617 of 2025

**Ashish Mittal and another
Vs.
The State of West Bengal and others.**

**Mr. Debanik Banerjee,
Mr. Steven S. Biswas,
Ms. Huzaifa Shahid.**

... for the petitioners.

**Mr. Ambarnath Banerjee,
Ms. Sanchayita De.**

... for the State respondents.

1. This writ petition assails orders dated September 11, 2025 and October 14, 2025 passed by the Sub-Divisional Magistrate, Bidhannagar, North 24-Parganas in a proceeding under Section 3 of the West Bengal Public Land (Eviction of Unauthorized Occupants) Act, 1962.
2. By the order dated September 11, 2025, Tirupati Projects, which is a proprietorship firm, whereof the petitioner no. 1 claims to be the owner/proprietor, has been directed to remove *“all the permanent and temporary structures from the suit plot within 12.30 p.m. of 10.10.2025”*. The said order was followed up by another order dated October 14, 2025, whereby the Sub-Divisional Magistrate, Bidhannagar, North 24-Parganas, directed the Executive Engineer, BMS Division, *“to make necessary arrangement to take possession of the suit plot no. DD-9, Sector-I, Salt Lake on 8.12.2025 at 12.30 p.m.”*.

3. Learned Advocate appearing on behalf of the petitioners submits that although the order impugned is appealable in nature, however, the petitioners could not prefer an appeal before the appellate authority inasmuch as the appellate authority was not accepting the appeals.
4. It is further submitted that the petitioners could not attend the hearing before the Sub-Divisional Magistrate because the petitioner no. 1 was ill and the petitioner no. 2 being his son was attending to the petitioner no. 1.
5. It is submitted that the petitioners are in possession of the documents, which would substantiate the petitioners' case that the petitioners are not in unauthorized occupation of any Government land including the plot in question.
6. Learned Advocate appearing on behalf of the respondents-State Authorities refutes the submissions made on behalf of the petitioners and submits that the appellate authority is very much there and it is incorrect to say that the appeals are not being accepted. It is further submitted that, in fact, a learned Advocate on behalf of the petitioners himself had written a letter to the Additional Secretary, Government of West Bengal, Department of Urban Development and Municipal Affairs, as far

back as on February 28, 2024 stating as follows:

“10. That my client never encroached any portion of said plot i.e. DD-9, Sector-I, Salt Lake City, Kolkata – 700064, he just cleared it up and beautified as well as modified the same at his own cost for the development of locality, where he is running his business. Further whenever my client organizes any function and/or program, he had taken all permissions from the authorities and paid fees accordingly.

11. That my client is ready and willing to vacate the said plot of land and handover to any person (proposed assignee) after proper assignment process from your good office, but not prior to that. My client had valid apprehension that if he leave or vacate the premises, then this plot of land will return back to its old state, as it was prior to 2015 and will again be converted into a dump yard of Salt Lake and also encroached by peoples by assembling shanties again, which will be a great shame to every public of such Block and cause loss to my client as well as society.”

It is further submitted that the order impugned dated September 11, 2025 is only aimed at removing people, who are in unauthorized occupation of plots in question, without disturbing the slum dwellers. It is further submitted that plot no. DD-9, which forms the subject matter of the proceeding before the Sub-Divisional Magistrate, is an un-allotted plot and, as such, the petitioners could have laid any claim over the same.

7. Learned Advocate appearing on behalf of the petitioners, however, submits that the said letter dated February 28, 2024 does not appear to have been issued on behalf of his clients. It is submitted that he has no instructions as regards the same.

8. It is further submitted by the petitioners that if an

opportunity is given to the petitioners to produce the relevant documents before the Sub-Divisional Magistrate, the petitioners would be in a position to demonstrate that the petitioners are legally entitled to occupy the subject property.

9. Heard the learned Advocates appearing on behalf of the respective parties and considered the material on record.
10. From the several documents annexed at pages 29 to 89 of the writ petition it appears that the petitioner no. 1 was ill. However, that could not have stopped the petitioners from making appropriate representation before the Sub-Divisional Magistrate through someone else seeking adjournment of the proceedings before the Sub-Divisional Magistrate once the petitioners had notice of the said proceedings. Since no such exercise was undertaken by the petitioners the Sub-Divisional Magistrate rightly proceeded to pass the order dated September 11, 2025 and in such view of the matter, the said order at the present moment cannot be faulted.
11. However, since the proceeding is one, which involves demolition of an existing structure and the eviction of a person and the petitioners have made out a modicum of a case justifying their non-participation in the proceedings before the Sub-

Divisional Magistrate, this Court is minded to give one last opportunity to the petitioners to approach the Sub-Divisional Magistrate for a post-decisional hearing, without disturbing the order impugned herein. Accordingly, the petitioners are granted liberty to approach the Sub-Divisional Magistrate, Bidhannagar with all the relevant documents which the petitioners have in their possession, to substantiate their case within a week from date. The said Sub-Divisional Magistrate shall consider the petitioners' case in the light of the documents produced by the petitioners before the said Sub-Divisional Magistrate and afford the petitioners a post-decisional hearing.

12. If upon examining the documents produced by the petitioners before the said Sub-Divisional Magistrate the said authority is satisfied with the petitioners' case and claim that they are in valid and legal occupation of the subject property then in that case, the Sub-Divisional Magistrate shall not give effect to the orders dated September 11, 2025 and dated October 14, 2025. However, if the Sub-Divisional Magistrate is not satisfied with the petitioners' case then in that case the Sub-Divisional Magistrate shall give reasons in support of such conclusion and the order dated September 11, 2025 shall remain effective.

13. Since it is noticed that the date of physical possession has been fixed on December 18, 2025, the respondents shall postpone the date of physical possession to any date later than the date on which the said Sub-Divisional Magistrate shall take decision on the basis of the post decisional hearing granted to the petitioners in terms of this order.
14. It is clarified that this Court has not gone into the merits of the petitioners' case and the Sub-Divisional Magistrate shall be absolutely free to pass any order in accordance with law including reaching the same conclusion that the said authority has reached in the order dated September 11, 2025.
15. WPA 28617 of 2025 stands disposed of with the above observations. There shall, however, be no order as to costs.
16. Urgent Photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Om Narayan Rai, J.)