

WPA 1126 of 2026
Sushil Mali
Vs.
The State of West Bengal & Ors.

Mr. Dyutimoy Paul

...for the Petitioner

Mr. Soumitra Bandyopadhyay,
Mr. Priyabrata Batabyal

...for the State

Mr. Mukteswar Maity,
Ms. Manika Sarkar

...for Respondent No. 10

The petitioner alleges that respondent nos. 8 to 14 have undertaken unauthorised construction on land in which the parties are admittedly co-sharers, being Plot Nos. 80, 81, 82 and 89, J.L. No. 128, Mouza-Paltaberia, Murisai, Kanthi, Purba Medinipur. It is not in dispute that the petitioner and respondent nos. 8 to 14 are co-sharers in respect of the said property.

The petitioner further states that a partition suit between the parties is pending before the competent Civil Court, wherein an order dated September 16, 2025 was passed affirming a temporary injunction earlier granted on July 5, 2013, directing the parties to maintain status quo with regard to the possession, nature, and character of the property until disposal of the suit.

It is alleged that, in violation of the said order of injunction, respondent nos. 8 to 14 have carried out unauthorised construction on the land without obtaining permission from the Panchayat authority. Learned counsel

for the petitioner submits that the Panchayat authority ought to initiate demolition proceedings in respect of such alleged unauthorised construction, placing reliance upon the decision reported in 2024 SCC OnLine Cal 11856 (Padmalochan Pannigrahi v. State of West Bengal & Ors.). It is further contended that an injunction order passed in a civil suit does not operate as a bar to the discharge of statutory duties by the Panchayat authority under Section 23(5) of the West Bengal Panchayat Act, 1973.

The allegation of unauthorised construction is denied by the learned advocate appearing for respondent no. 10.

Upon consideration of the materials on record, this Court finds that the writ petition is conspicuously silent as to the precise nature and extent of the alleged unauthorised construction said to have been undertaken by respondent nos. 8 to 14. The representations annexed to the writ petition similarly fail to disclose any specific particulars. In one such representation, it is alleged that the respondents are constructing a road by cutting trees standing on the land. In another, vague allegations of unauthorised construction are made without any description whatsoever of the nature, character, or dimensions of the purported construction.

In the absence of specific pleadings disclosing the nature of the alleged unauthorised construction, this Court

cannot be expected to direct initiation of demolition proceedings. The extraordinary jurisdiction of a Writ Court cannot be invoked on the basis of vague and unsubstantiated allegations.

The petitioner has already availed himself of a remedy before the Civil Court by instituting a partition suit and obtaining an order of injunction. Having chosen to pursue such civil remedy, he cannot now be permitted to impart a public law character to a dispute that is essentially civil in nature, particularly at a belated stage. The writ jurisdiction cannot be utilised as an alternative forum to secure indirectly what may not be obtainable directly in civil proceedings.

The allegation regarding absence of a sanctioned plan is inextricably intertwined with the underlying civil dispute and appears to have been advanced primarily to lend a semblance of public law colour to what is fundamentally a private conflict concerning co-sharers' rights.

Accordingly, **WPA 1126 of 2026** stands dismissed.

Urgent certified *website* copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)