

Ct.No.1 D/L 27.02.2026
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Saikat
Mukherjee

WPA(P)/14/2026

**RUPAK KHATA AND ORS.
VS.
STATE OF WEST BENGAL AND ORS.**

Mr. Amit Barman Dash, Adv.
Ms. Ankana Sarkar, Adv.

...For the Petitioners

Mr. Sirsanya Bandopadhyay, S.S.C.
Mr. Tarak Karan, Adv.

...For the State

Mr. Niladri Bhattacharya, Adv.
Ms. Deblina Chattaraj, Adv.

...For the Respondent No.8

Per, Partha Sarathi Sen, J.

1. The parties to the instant writ petition are represented by their respective learned advocates.
2. On behalf of the Respondent No.6, that is the BDO, Bishnupur-II, South 24 Parganas, a report is filed after serving copy to the learned advocate for the petitioners. The said report is taken on record.
3. At the very outset, learned advocate appearing on behalf of the writ petitioners, submits before this court that he shall not file any exception to such report.

4. By filing the instant writ petition the writ petitioner has prayed for issuance of appropriate Writ/Writs against the respondent authorities commanding them to take appropriate steps for stoppage and/or removing the illegal encroachment over the Plot No.44 at Mouza-Gobindapur, District-South 24 Parganas, which has been recorded as *Shasan* (cremation ground) and is a vested land.
5. In course of his argument, learned advocate for the petitioner draws our attention to Page No.15 of the instant writ petition being copy of LR RoR in respect of Plot No.44 wherefrom it reveals that the said plot of land is recorded as *Shasan* (cremation ground) in Khatian No.I. At this juncture, attention of ours is drawn to Page No.31 of the instant writ petition being a copy of the letter dated 19th July, 2024 and it is submitted that on perusal of the said letter as has been written by the Respondent No.6 to the Respondent No.7 it would reveal that in the said LR Plot No.44 a two storeyed building has been constructed on a vested land, however, the ownership of the said building could not be ascertained.

- 6.** Based on such facts, learned advocate appearing on behalf of the writ petitioner submits before this court that since a substantial portion of the vested land has been encroached by some unknown persons, such encroachment cannot be allowed to be continued and thus, appropriate relief/reliefs may be granted to the writ petitioner in terms of the prayer made in the instant writ petition keeping in mind that the said plot of land is used as *Shasan* (cremation ground) by the local people who belong to the Hindu community.
- 7.** *Per contra*, Mr. Karan, learned advocate appearing on behalf of the Respondent-State draws our attention to the report as submitted by the Respondent No.6 authority.
- 8.** It is argued by Mr. Karan that the allegation as made by the writ petitioner in the writ petition finds substance in the report as submitted today inasmuch as LR Plot No.44 is recorded as vested land and the classification of the land is *Shasan* (cremation ground). He further submits that the report also speaks that a two storeyed building is constructed in the Northern portion of the said plot of land, however, the ownership of the building could not be ascertained.

9. Drawing attention to Page Nos.3 and 4 of the said report it is, however, contended by Mr. Karan that in course of enquiry it has been ascertained that the said construction was made in the year 2003 and 2012 by the then Gram Panchayat on government land and thereby some shops have been constructed by the said Gram Panchayat which have been let out to different shop owner against rent.

10. It is further submitted that in the said report it has also been stated that subsequently on 2nd December, 2025, the Pradhan of the Govindapur Kalicharanpur Gram Panchayat, that is the Respondent No.8 herein had submitted a letter to the BDO, Bishnupur-II, South 24 Parganas, with a request to hand over the land in question to them.

11. It is submitted by Mr. Karan that from the said report it would reveal further that the Respondent No.6 on affidavit submits before this court that since 2003 no cremation and/or burial activities are taking place in the said plot of land.

12. Before coming to a logical conclusion of the instant writ petition, we, at the very outset, propose to look to section 4C of West Bengal Land Reforms Act, 1955, (hereinafter referred to

as 'the said Act' in short) which is quoted hereinbelow in verbatim:-

“4C.Permission for change of area, character or use of land. – (1) *A raiyat holding any land may apply to the Collector for change of area of character of such land or for conversion of the same for any purpose other than the purpose for which it was settled or was being previously used or for alteration in the mode of use of such land.*

[Explanation.-For the purposes of this subsection, mode of use of land may be residential, commercial, industrial, agriculture excluding plantation of tea, pisciculture, forestry, sericulture, horticulture, public utilities or other use of land.]

(2) On receipt of such application, the Collector may, after making such inquiry as may be prescribed and after giving the applicant or the persons interested in such land or affected in any way an opportunity of being heard, by order in writing either reject the application or direct such change, conversion or alteration, as the case may be, on such terms and conditions as may be prescribed:

(3)...

(4)...

(5)...

(6)..."

13. Keeping in mind the aforementioned legislative provision, if we look to the factual aspects as involved in the instant writ petition it appears to this court that sufficient materials have been placed before this court on behalf of the writ petitioner that the relevant Plot No.44 is a vested land and has been recorded in Khatian No.I with the classification as *Shasan* (cremation ground).

Section 4C of the said Act clearly mandates that no change of area or character or conversion is allowed to be carried out by a raiyat except on the permission of the Collector.

14.At this juncture, if we look to the report as submitted by the Respondent No.6 authorities, it appears that prior to construction of a two storeyed building over a government land which has been recorded as a *Shasan* (cremation ground), the Respondent No.8 authority and/or its predecessor-in-office has made no application for settling the land in favour of the Respondent No.8 authority and/or no such application has been made for change of its user as has been mandated in section 4C of the said Act.

15.Rather we have noticed that such an application has been made only on 2nd December, 2025, by the Respondent No.8 for handing over the said plot of land in favour of the Respondent No.8 authority though in the report there is no whisper as to whether any application has been made by the Respondent No.8 authority for change of user specially when a report is submitted in the court stating that the said plot of land is used for commercial purpose though it is recorded as a *Shasan* (cremation ground).

- 16.** In view of such factual backdrop, we permit the writ petitioner to forward a copy of the instant writ petition along with all annexures and the server copy of this order to the Respondent No.2 authority and the Respondent No.2 authority on receipt of the same shall treat the copy of the writ petition as a representation of the writ petitioner.
- 17.** We further direct the BL&LRO, Bishnupur-II to forward the Memo No.3109 dated 4th December, 2025, as submitted by the Respondent No.8 authority to the Respondent No.2 authority forthwith.
- 18.** The Respondent No.2 authority on receipt of the copy of the instant writ petition along with server copy of this order and the Memo No.3109 dated 4th December, 2025, shall give due opportunity of hearing, both to the writ petitioner and the Respondent No.8 and/or their authorised representatives and shall pass a reasoned order on such representation and also on Memo No.3109 dated 4th December, 2025, and shall forthwith communicate the same both the parties forthwith.
- 19.** The entire exercise, as indicated hereinabove, shall have to be completed within 60 working days from the date of receipt of the copy of the

writ petition along with a server copy of this order as well as the Memo No.3109 dated 4th December, 2025, as mentioned earlier.

20. The time limit, as fixed by this court, is peremptory and mandatory.

21. The Respondent No.2 is hereby directed to take all consequential action immediately after passing of the reasoned order.

22. With the aforementioned observations and directions and without entering into the merits of the instant writ petition as well as the Memo No.3109 dated 4th December, 2025, WPA (P) No.14 of 2026 is **disposed of**.

23. Mr. Karan, learned advocate appearing for the Respondent-State is hereby requested to communicate the server copy of this order to the Respondent No.2 forthwith.

24. Before parting with, it is, however, made clear that till the passing of the reasoned order by the Respondent No.2, the Respondent No.2 shall ensure that no further encroachment and/or construction takes place in LR Plot No.44 at Mouza-Gobindapur, District-South 24 Parganas.

25. Urgent Photostat certified copy of this order, if applied for, be given to the parties, on priority

basis, upon compliance of all necessary formalities.

(SUJOY PAUL, CJ.)

(PARTHA SARATHI SEN, J.)