

09.02.2026
Court No.13
Item No. 5
pk

MAT 141 of 2026
With
CAN 1 of 2026
Daud Ali Molla
Vs.
The State of West Bengal & Ors.

Mr. Pankaj Halder,
Ms. Seuli Banerjee.

... For the appellant.

Mr. K.M. Hossain,
Mr. Syed Mosihar Rahaman.

..for the State.

Mr. Atarup Banerjee,
Mr. Bapin Baidya,
Mr. Sandipan Maity.

..for the private respondent.

Mr. Saumen Gayen.

...for the respondent no. 8.

1. The appeal is directed against order dated 16th January, 2026 passed by a Single Bench of this Court.

2. The writ petitioner/appellant claimed that the private respondent no. 10 has constructed a permanent shop room at the said plot called 'Bakultala Natunhat'.

3. While the appellant claims that he has obtained the plot in question from the Bakultala Natunhat Welfare Committee, the private respondent claimed to have purchased the property from a third party.

4. The Single Bench found about 100 shop rooms located in a 10 acre plot which is a local market. He found that it would be inappropriate to conduct a roving enquiry as regards the propriety of the respondent in constructing without the sanction of the local Panchayat or without converting the land from “Shali” to “Bastu”.

5. The genesis of the appellant’s grievance against the private respondent appears to be a title dispute. The Single Bench has duly understood the essence of the same and has refused to exercise the discretionary jurisdiction under Article 226 of the Constitution of India. This is more so in the light of the fact that 100 shop rooms constructed in an open market.

6. While it is true that anyone or anybody can complain in respect of an illegal construction, a Court has to be vigilant with regard to the real motive of the appellant who has an individual interest in the property and claims title to the same.

7. Such writ petition with the aforesaid cause of action ought not to be entertained. Parties ought to be relegated to a Civil Court. The Single Bench has rightly not interfered in the matter at the instance of the appellant.

8. The impugned order, therefore, calls for no interference.

9. MAT 141 of 2026 fails and is hereby dismissed.

10. Consequently, all pending applications, shall also stand dismissed.

11. There shall be no order as to costs.

12. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)