

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present :-

The Hon'ble Chief Justice Sujoy Paul

And

The Hon'ble Justice Partha Sarathi Sen

FMA 177 of 2026

With

CAN 1 of 2026

Archana Mal

-Vs-

The State of West Bengal

For the appellant : Mr. Sabir Ahmed
Mr. Sudip Kushari
Mr. Dhiman Banerjee

For the State : Ms. Tapati Samanta

For the respondent nos.5-9 : Ms. Pampa Dey (Dhabal)
Mr. Biswarup Chatterjee

For the respondent no.4
Pradhan, Kotulpur Gram Panchayat : Mr. Siddhartha Sarkar

Heard on : 01.04.2026

Judgment on : 01.04.2026

Partha Sarathi Sen, J. : –

1. In this intra-court appeal, the order dated 8th January, 2026 as passed by the learned Single Bench in WPA 7168 of 2025 is assailed. By the impugned order, the learned Trial Court disposed of the said petition by holding that the dispute

between the writ petitioner and the private respondents are civil in nature and since the Civil Court is in seisin of the matter, liberty was given to the writ petitioner to approach the jurisdictional Civil Court for redressal of her grievance.

2. At the time of hearing, Mr. Ahmed, learned counsel appearing on behalf of the appellant/writ petitioner at the very outset draws our attention to the copy of the writ petition as filed before the learned Single Bench. It is submitted that from the prayers of the said writ petition it would reveal that before the learned Single Bench the writ petitioner has made an innocuous prayer for granting police help/protection to the writ petitioner so as to enable her to raise construction over the portion of LR Plot No.911 in Mouza Gogra under P.S. Kotulpur, District Bankura which is recorded as 'Bastu' pursuant to the sanction plan as issued by the local panchayat that is the respondent no.4 herein.

3. It is submitted further on behalf of the writ petitioner that by an order dated 25.03.2026 in WPA 12740 of 2025 **(Sri Sri Gangadhar Shiv Thakur & Anr. vs. The State of**

W.B. & Ors.) at the instance of the private respondents herein, the self-same learned Single Bench dismissed the writ petition of the present respondents wherein permission granted by the panchayat authority in favour of the present writ petitioner was under challenge. A server copy of the said order dated 25.03.2026 is filed and the same is taken on record.

4. Mr. Ahmed further submits that admittedly before the learned Civil Judge (Junior Division) at Bishnupur, District Bankura Title Suit No.192 of 2024 between the private respondents as plaintiff and the present writ petitioner as defendant is pending and the same would be evident from page nos.70 to 83 of the pending CAN 1 of 2026. It is further submitted that in the said pending suit, an injunction application is yet to be disposed of.
5. It is further submitted by Mr. Ahmed that prior to filing of Title Suit 192 of 2024, the present private respondents have filed another Title Suit which was dismissed for default as would be evident from page no.67 of the pending CAN 1 of 2026.

6. In this regard, Mr. Ahmed draws our attention to page no.89 of the interlocutory application being CAN 1 of 2026.
7. It is submitted further that while disposing of the earlier writ petition being WPA 12740 of 2025, the learned counsel appearing on behalf of the panchayat made a submission before the learned Single Bench that though the plot in question i.e. Plot No.911 is same, but a portion of the said plot has been recorded as *Debuttar* and the other portion is recorded in the name of the private respondents with the classification 'Bastu'.
8. It is submitted by Mr. Ahmed that the writ petitioner/appellant obtained sanction plan from the local panchayat over the portion of the plot which is not recorded as *Debuttar*, on the contrary the same is recorded in the name of the writ petitioner.
9. It is thus submitted that the learned Single Bench is not at all justified in refusing the prayer for grant of police help simply on the ground that a civil suit is pending.
10. *Per contra*, Ms. Dhabal, learned counsel appearing on behalf of the private respondents supports the impugned

order. It is submitted that admittedly before the learned Civil Judge (Junior Division) at Bishnupur, District Bankura a Title Suit No.192 of 2024 is pending wherein present respondents have sought for declaration and permanent injunction in respect of schedule mentioned properties of the said suit wherein the relevant plot no.911 is involved.

11. It is submitted by Ms. Dhabal that since a title suit over the self-same property is pending before the jurisdictional Civil Court and in the event a favourable order is passed in favour of the present appellant that would cause serious detriment to the right, title and interest of the private respondents and there is every possibility that the said pending suit i.e. Title Suit No.192 of 2024 as pending before the learned Civil Judge (Junior Division) at Bishnupur, District Bankura, would become infructuous.
12. Ms. Dhabal thus submits that it is a fit case for dismissal of the appeal.

13. Learned advocate for the State in his usual fairness submits before this Court that an appropriate order may be passed while disposing the instant appeal.
14. We have considered the rival contentions of the parties. We have also meticulously perused the entire materials placed before us.
15. From the materials placed before this Court we find that before the Learned Single Bench the writ petitioner had approached for granting police help so as to enable her to raise construction as permitted by the local Panchayat Authority.
16. Materials have been placed before us that before the selfsame Single Bench in another writ petition i.e. WPA 12740 of 2025 the Panchayat Authority submitted that in respect of LR plot no.911, a portion of the plot in question has been recorded as 'debuttar' property and other portion is recorded in the name of private respondent, who is the writ petitioner/appellant before this Court. The learned Single Bench in the said order dated 25.03.2026 also recorded the submission of the Panchayat Authority that

the said Panchayat Authority granted permission to the present writ petitioner/appellant to raise construction in her part of the said LR plot no.911, which is, however, seriously disputed by Ms. Dhabal, learned advocate appearing on behalf of the private respondent herein.

17. From page no.35 of the pending CAN 1 of 2026 being a copy of LRROR, we find 0.2717 acres of land in LR Plot No.911 is recorded in the name of the writ petitioner.
18. On careful perusal of the entire materials we find that before the learned Single Bench as well as before this Court the present writ petitioner/appellant is successful in establishing that she has obtained a sanction plan for raising construction over a portion of LR plot no.911 which is recorded in her name.
19. Admittedly, before the jurisdictional civil Judge a title suit is pending for adjudication of declaration of right, title and interest of the private respondents in respect of plot no.911.
20. There is no certainty as to when the said title suit will come to an end especially when the injunction application

as filed in the said suit by the present respondent as plaintiff is yet to be disposed of.

21. We have also noticed that on the selfsame plot of land earlier suit as filed by the private respondents was dismissed for default and no venture was made for restoration of the same.

22. Such being the position, we find that the learned Single Bench is not justified in disallowing the prayers of the writ petitioner without looking into the fact that the writ petitioner has obtained sanction plan from the said Panchayat Authority for raising construction over an area of 0.05 decimal of land in plot no.911 (part) as would be evident from page no.40 of CAN 1 of 2026.

23. In view of discussion made hereinabove, we, thus, find merits in the instant appeal. Accordingly, FMA 177 of 2026 is hereby allowed.

24. Consequently the impugned order dated 8.1.2026 as passed by the learned Single Bench in WPA 7168 of 2025 is set aside.

25. Consequently, the respondent/State, more specifically the respondent nos.2 and 3 are directed to grant police help to the appellant/writ petitioner on the basis of complaint dated 18.03.2025 so as to enable the writ petitioner to carry out her construction strictly in terms of the sanction plan granted by the respondent no.4 authority subject to deposit of requisite cost for police posting or police help.
26. Before parting with, it is made clear that the learned civil Judge, Junior Division at Bishnupur, District-Bankura while disposing of the injunction application as well as the Title Suit No.192 of 2024 is at liberty to dispose of the said injunction application and the said suit in accordance with law and on its merit and also without being influenced by any of the observations made hereinabove since our observations in connection with the instant appeal is limited only for disposal of the instant appeal.
27. In the event any adverse order is passed in Title Suit No.192 of 2024 by the jurisdictional Civil Judge against the present appellant/writ petitioner, she will not seek any equity over the said construction in view of this order.

28. We have also recorded the undertaking given by the present appellant through his counsel Mr. Sabir Ahmed that in the event any adverse order is passed by the jurisdictional Civil Court against the present appellant/writ petitioner, she shall demolish such construction at her own cost, failing which liberty is given to the private respondents to approach the appropriate forum to demolish the said construction.
29. With the aforementioned observation, the instant appeal is disposed of.
30. With the disposal of the instant appeal, the pending interlocutory application being CAN 1 of 2026 is also disposed of.
31. Urgent photostat certified copy of this judgment, if applied for, be given to parties upon compliance of all necessary formalities.

I agree.

(Sujoy Paul, C.J.)

(Partha Sarathi Sen, J.)