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Ct.3.

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 3184 of 2026

Yusuf Sk
Versus
The State of West Bengal & Ors.

Mr. Maidul Islam Kayal
Mr. Noor ul Amin Sarder
Mr. Archishman Singh
Mr. Mohinur Mullick
... For the petitioner.

Mr. Ayan Chandra Roy
Mr. Sutanu Chakrabarti
... For the State.

Mr. Hafizur Rahaman
... For the municipality.

1. Affidavit of service filed in Court is taken on record.
2. The instant writ petition has been filed complaining illegal construction on the petitioner's property situated at Mouza – Beldanga, J. L. No. 51, District – Murshidabad, pertaining to R.S. Dag No. 176 corresponding to L.R. Dag No. 242 and 246, under Beldanga Municipality.
3. Learned advocate for the petitioner by placing before this Court the order no.8 dated 28th August, 2025 passed in T.S. 363 of 2024 by the Civil Judge, (Junior Division), Additional Court, Berhampore, Murshidabad, would submit that there is subsisting interim order of

injunction restraining the respondents from changing nature and character of the suit property.

4. Learned advocate representing the municipality would submit that since the municipal records do not show that the property in question is recorded in the petitioner's name the municipality has proceeded with the development work.

5. Having heard the learned advocates appearing for the respective parties, I find that an ad interim order of injunction has already been passed by a civil Court. The municipality claimed to be not bothered with such order. I also find from the order sheet that the matter is pending ex parte against the municipality. Though the municipality would submit that the property in question had never been occupied by the petitioner and previously a school was in occupation as such the municipality had proceeded with the development, however, in my view, the same may not authorized the municipality to continue with the construction unless, the municipality is in a position to demonstrate that the municipality is the owner of the property in question or is otherwise authorized to develop such property. It is well settled that none can be deprived of its property without due process and without payment of compensation.

6. Be that as it may, since the civil Court is *in seisin* of the matter and an order of injunction is subsisting, ordinarily no construction can take place. Since, the civil

Court is in seisin of the matter, I am of the view no interference is called for. The writ petition stands dismissed, leaving it open to the petitioner to apply for appropriate relief before the civil Court.

7. Let a copy of the report filed on behalf of the police authorities be taken on record.

8. It is, however, made clear that this Court has not gone into the merits of the matter and since no affidavit-in-opposition has been called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

(Raja Basu Chowdhury, J.)