

16-17
07.04.2026
Ct. No.15
b.das

WPA 3761 of 2026

Bibhas Chandra Jana @ Bibhas Jana
Vs.
The State of W.B. & Ors.
With
WPA 7243 of 2022

Sukumar Jana
Vs.
The State of W.B. & Ors.

Mr. Mrinal Kanti Ghosh
Ms. Bipasha Bhattacharyya ...for the petitioner
in WPA 3761 of 2026 and
respondent no.5 in WPA
7243 of 2022.

Mr. Sagnik Chatterjee
Mr. Aviroop Bhattacharya ...for the State in
WPA 3761 of 2026.

Mr. Sujit Kumar Rath ...for the petitioner
in WPA 7243 of 2022 and
respondent no.7 in WPA
3761 of 2026.

Mr. Pinaki Dhole
Mr. Ananya Neoti ...for the State in
WPA 3761 of 2026.

An inadvertent error crept into the order passed on
23rd March, 2026.

In the 3rd paragraph of the 1st page of the order, “17th
November, 2026” be read as “17th February, 2026”.

The Department is directed to incorporate necessary
correction in the said order accordingly.

This order be treated as part of the order dated 23rd
March, 2026.

On prayer of the petitioner in WPA 3761 of 2026, liberty is granted to correct the plot number in the prayer portion of the writ petition.

Since both the writ petitions pertain to the same issue, they are taken up for consideration together and are disposed of by a common order.

Learned counsel for the petitioner in WPA 3761 of 2026 (hereinafter referred to as the 2nd application) submits that the petitioner has been raising construction in 2 decimals of land in LR Plot No.64/288 under the Pradhan Mantri Awas Yojana Scheme upon obtaining necessary approval from the concerned Gram Panchayat and no objection from the other co-sharers of the plot.

The private respondent who is the petitioner in the 1st writ petition is the owner/occupier of 1 decimal of land in the said plot.

A stop work notice was received by the petitioner in the 2nd application from the concerned Gram Panchayat directing him to appear before the Panchayat on 17th February, 2026. The petitioner in the 2nd application seeks to continue with the construction in terms of the Scheme and submits that the Scheme has been allotted in favour of his son.

Learned counsel for the petitioner in the 2nd writ petition submits that the construction is being carried on by encroaching upon his portion of the plot. He has submitted a representation before the concerned authority

seeking demolition of such unauthorized construction which is yet to be considered.

I have heard the rival contention of the parties.

The petitioner in the 1st writ petition filed a suit for decree for declaration and injunction against the petitioner in the 2nd application which was dismissed. The judgment was carried in appeal by the petitioner in the 1st writ petition which was also dismissed. The title and possession of the petitioner in the 1st writ petition in respect of the plot in question were declined by the learned Trial Court as well as in the appeal.

It is evident from the record that the petitioner in the 2nd application is carrying on construction in the plot in question under the Pradhan Mantri Awas Yojana Scheme in terms of the approval granted by the Panchayat and upon depositing the requisite cost.

Learned counsel for the petitioner in the 2nd writ petition submits that the said construction is confined to the 2 decimals of land owned and occupied by him and has not spilt over to any portion of the remaining 1 decimal of land owned and occupied by the petitioner in the 1st application.

In view of the above, this Court is inclined to hold that since the petitioner in the 2nd writ petition has been raising construction under the Scheme allotted in favour of his son, he is at liberty to continue the same in terms

thereof within the 2 decimals area of the plot being LR plot no.64/2888.

In the event the petitioner in the 1st writ petition alleges encroachment of his plot by the other petitioner, he is at liberty to take necessary steps before the appropriate civil forum.

The notice issued by the Panchayat authority upon the petitioner in the 2nd application on 10th February, 2026 is set aside.

Both the writ petitions are disposed of accordingly.

There shall, however, be no order as to costs.

Since no affidavit is invited, the allegations contained in the writ petition are deemed not to have been admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)