

Sl. 9
18.03.2026
Court No.19
BP

WPA 6518 of 2026

Sri Bholanath Bag & Ors.
-versus-
The State of West Bengal & Ors.

Mr. Salil Kumar Maiti
Mr. Dyutiman Banerjee
Ms. Dolan Samanta
..for the petitioners

Mr. Sambuddha Dutta
Mr. Ritesh Kumar Ganguly
..for the State

The grievance of the petitioners is that the authorities have sought to execute the order of demolition dated 8th January, 2026 passed by the Sub-Divisional Magistrate, Tamluk in Case No. 43/2025 in spite of the fact that such order is under challenge at the instance of the petitioners before the appellate authority.

Mr. Banerjee, learned advocate appearing for the petitioners submits that an appeal has been preferred challenging the order dated 8th January, 2026 passed by the Sub-Divisional Magistrate, Tamluk in Case No. 43/2025 on 11th February, 2026. He submits that the appeal is still pending before the appellate authority. He submits that during the pendency of the said appeal the Assistant Engineer, Public Works Department, Haldia Construction Sub-Division No.1 issued a memo dated 9th March, 2026 requesting the Superintendent of Police (DIB), Tamluk to post sufficient police force for removal of encroachment of the Government land at Plot No.11591.

The learned advocate appearing for the State submits, on instructions, that no steps for demolition of the said encroachment shall be taken till the appeal is disposed of in accordance with law.

The petitioners have availed of the statutory appellate remedy. If during the pendency of the said appeal, the order under challenge in the said appeal is executed/implemented with police help, the appeal would become infructuous and the petitioners will suffer irreparable loss and injury. For such reason, this Court is of the considered view that the respondent authorities should be restrained from executing the order of the Sub-Divisional Magistrate dated 8th January, 2026 till one week after the communication of the order that may be passed by the appellate authority.

In the light of the submissions made by the learned advocates for the respective parties, WPA 6518 of 2026 stands disposed of by directing the appellate authority to dispose of the appeal preferred by the petitioners challenging the order dated 8th January, 2026 passed by the Sub-Divisional Magistrate in Case No. 43/2025 by passing a reasoned order after affording an opportunity of hearing to the petitioners and any other person who may be affected by such decision and communicate the reasoned order to the petitioners and others as expeditiously as possible but positively within a period of ten weeks from the receipt of a server copy of this order.

There shall be an order of injunction restraining the respondent authorities from executing the order dated 8th January, 2026 passed by the Sub-Divisional Magistrate, Tamluk in Case No. 43/2025 till one week after the communication of the order, that may be passed by the appellate authorities, to the petitioners.

The petitioners are directed to communicate the server copy of this order to the respondent authorities.

There shall be however no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)