

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION**

APPELLATE SIDE

FMA 1196 of 2024

**Barabagan Prantik Sangha
Vs
Nishakar Mondal & Ors.**

Before: The Hon'ble Justice Arijit Banerjee

&

The Hon'ble Justice Apurba Sinha Ray

For the Appellant	Mr. Partha Sarathi Bhattacharyya, Sr. Adv.
For Respondent Nos. 1 and 2	Mr. Raju Bhattacharyya, Adv. Mr. Jayanta Kumar Mitra, Sr. adv. Mr. Amitesh Banerjee, Adv. Mr. Sabir Ahmed, Adv. Mr. Dhiman Banerjee, Adv. Mr. E. Ahmed, Adv.
For the State	Mr. Jahar Lal De, AGP. Mr. Rudranil De, Adv.
For the Municipality	Mr. Saikat Chatterjee, Adv.
For Orders on	21.01.2026

Arijit Banerjee, J. :-

1. This appeal is directed against a judgment and order dated April 24, 2024, passed by a learned Judge of this Court in WPA no. 8893 of 2020, being a writ petition filed by the respondent nos. 1 and 2 herein.
2. The writ petitioners had approached the learned Single Judge with the grievance that the appellant herein, which was the respondent no. 7 before the learned Single Judge, had illegally encroached on a public road in front of the

property of the said respondent as also the writ petitioners and had made illegal construction thereon. As a result, ingress to and egress from the property of the writ petitioners was hampered. The illegal construction also caused general inconvenience to the residents of the locality at large.

3. It was contended by the writ petitioners that the concerned road by the name of Suri Karidhya Road, (in short, the 'said road') is shown as 'Rasta' in the land records. The respondent no. 7 / appellant could not make any construction on any portion of the said road. The writ petitioners prayed for a direction on the respondent authorities to remove the illegal construction.

4. It was contended on behalf of the respondent no. 7/appellant that the Government of West Bengal had permitted the Birbhum Zilla Parishad to transfer a piece of land measuring 360 sq.ft. in Plot No. 774 in Mouza – Brojergram, JL No. 104, Police Station – Suri in favour of the appellant at a price of Rs. 2000/- per katha, for construction of a building thereon. The appellant relied on a document dated November 25, 1982, the text whereof is reproduced hereunder:

“Government of West Bengal

Panchayats & C.D. (Panchayats) Department

From: The Asstt.Secy to the Govt. of West Bengal.

To: The Secretary,

Birbhum Zilla Parishad, Suri.

No. 27509/I/Panch/1L-5/82, dated Calcutta, the 25.11.1982

Sub: Disposal of a piece of land measuring more or less ½ Kath by the Birbhum Zilla Parishad in favour of Barabagan Prantik Sangha, Suri Birbhum.

Ref.: His No.1167 dt.3.8.82.

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The undersigned is directed by order of the Governor to say that the Governor has been pleased under section 175 of the West Bengal Panchayat Act, 1973 to allow the Birbhum Zilla Parishad to transfer a piece of land measuring 360 sq.ft. or more less ½ Katha out of plot No.774 in Mouza- Brojergfam J.L.No.104; Police Station-Suri in favour of Barabagan Prantik Sangha, Suri, at a price of Rs. 2000/- per katha, for construction of a building thereon.

Assistant Secretary.

dinda/-25.11.

WBGP-79/80-2859A-250M”

The appellant contended that construction was made by it on the plot of land transferred to it by the Birbhum Zilla Parishad.

5. Neither the State, nor the Zilla Parishad filed any affidavit before the learned Single Judge.
6. In fact it appears from the impugned judgment and order that the State did not even appear before the learned Single Judge.
7. By a detailed judgment and order, the learned Single Judge disposed of the writ petition with the following directions: -

“(i) The respondents Zila Parishad shall immediately take all necessary steps to provide free access of the road to all, including the writ petitioners, over plot no. 774, in Mouza-Brojergam, JL No. 104, Block-Suri I, District -Birbhum;

(ii) In doing so the said respondents shall take steps for demolition of the structure, constructed over there and all other steps as necessary, to

facilitate unhindered and free utilization of the passage; in doing so, it shall obtain full cooperation of the State respondents, as and when necessary and sought for;

(iii)The entire exercise as above shall be concluded within a period of 4 weeks from the date of communication of this order.”

8. Being aggrieved, the respondent no. 7 in the writ petition has come up by way of this appeal.

9. In the appeal, a Coordinate Bench passed an order dated May 16, 2024, directing impleadment of the Chairman of the Suri Municipality as a respondent in the appeal. Such direction was duly carried out.

10. By a subsequent order dated September 4, 2025, a Coordinate Bench recorded as follows:-

“Appeal concerns Plot No. 774 in Mouza – Brojergram, J.L. No. 104, Police Station – Suri.

There is a document dated November 25, 1982 issued by the State of West Bengal, Birbhum Zilla Parishad allowing more or less $\frac{1}{2}$ cottah in that plot to be utilized by the appellant.

Dispute is where is the location of that $\frac{1}{2}$ cottah in the plot no. 774 as such plot encompasses an area more than $\frac{1}{2}$ cottah.

In such circumstances, it would be appropriate to direct the concerned Block Land & Land Reforms Officer to visit the locale and prepare a plan with regard to the area of plot no. 774 and its occupation. In doing so, the concerned B.L. & L.R.O. may be assisted by the Birbhum Zilla Parishad, the appellant and the private respondent before us.

The date for local inspection is fixed on September 10, 2025 at 10.00 a.m. No further notice need be given to the parties since all of them are represented before this Court through their learned advocates.

List the appeal on September 15, 2025 when the report as called for be submitted.”

11. Pursuant to the aforesaid order, a joint inspection of the locale, was held and the Block Land and Land Reforms Officer, Suri-I Block, Birbhum, prepared a report dated September 11, 2025. Such report was subsequently placed on record before this Court. On November 4, 2025, when the matter appeared before this Bench, we had permitted the Chairman of the Suri Municipality to file an affidavit before us, bringing on record his stand. We had also recorded that we shall hear out the appeal treating the stay application as an informal paper book.

12. Subsequently, we heard learned Counsel for the parties at length.

13. The fulcrum of the appellant’s case is the document dated November 25, 1982, which has been reproduced hereinabove. Nothing else could be produced by the appellant which even remotely entitles it to occupy any portion of plot no. 774 in Mouza – Brojergram, J.L. No. 104, Police Station – Suri (in short the ‘said plot’).

14. Authenticity of the said document has not been challenged by the writ petitioners. However, all that the document does is that it records the Governor’s permission to the Birbhum Zilla Parishad, under Section 175 of the West Bengal Panchayat Act, 1973, to transfer a piece of land measuring 360 sq.ft. or half katha more or less in the said plot, in favour of the present appellant, at a price of Rs. 2000/- per katha, for construction of a building thereon. Hence, at the highest, the appellant can lawfully occupy 360 sq.ft. of land in the said plot.

15. However, from the report of the BL & LRO and the annexures thereto including a sketch map of the said plot, it appears that plot no. 21/774 is classified

as a 'Rasta'. It further appears that the total area occupied by the appellant in LR plot no. 21 / 774 is 1479 sq.ft. i.e., much in excess of 360 sq.ft.

16. The area occupied by the appellant comprises a pukka building having an area of 568 sq.ft. and vacant land with iron grill fencing measuring 911 sq.ft.

17. Apart from the fact that it is not at all clear, as to how the appellant is occupying an area of 1479 sq.ft. when, at the highest, it can stake its claim to 360 sq. ft, it is also not clear as to how the Government of West Bengal could permit the Birbhum Zilla Parishad to transfer 360 sq.ft. of land classified as 'Rasta', to the appellant.

18. Still further, the appellant has not been able to produce any document before us showing that any land was in fact transferred to it by the Zilla Parishad on the strength of the permission granted by the Honourable Governor as recorded in the document dated November 25, 1982.

19. Be that as it may, we shall presently proceed on the basis that the appellant is entitled to occupy 360 sq. ft. of land in Plot No. 774. However, as per the report of the BL & LRO it is in possession of 1479 sq.ft. of land. In other words, it is in occupation of an additional 1119 sq.ft. of land. Out of this, if there is any land owned by any private party, it is up to that party to take appropriate steps against the encroachment by the appellant. However, any encroachment by the appellant on Government Land/Municipality Land/Zilla Parishad Land must be removed. If the appellant has made any construction on the public road called Suri Karidhya Road, the same must be demolished.

20. Therefore, we only clarify that the learned Single Judge's directions contained in paragraph 31 of the impugned judgment would be read as pertaining to Plot No. 21/774 instead of plot no. 774. We further clarify that all illegal constructions made by the appellant without due sanction from the competent authority shall be demolished. All constructions made by the appellant encroaching

upon any public road or 'Rasta' will be demolished by the competent authority be it the Municipality or the Zilla Parishad. All encroachments by the appellant on Municipality Land / Zilla Parishad Land beyond 360 sq.ft, shall be removed by the competent authority.

21. With the aforesaid modification and clarification of the judgment and order under appeal, the appeal and the connected application stand disposed of.

22. Urgent Photostat certified copies of this judgment and order, if applied for, be supplied to the parties on compliance of all necessary formalities.

I agree.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)