

19.01.2026
Item no.04.
Ct. No.15
Suman

WPA 25764 of 2025

Rabindra Nath Modak
-vs-
The State of West Bengal and Ors.

Mr. Pankaj Halder
Ms. Dipanwita Laha
Ms. Seuli Banerjee
..for the petitioner

Mr. Sounak Bhattacharya
Mr. Sounak Mondal
Ms. Bipasha Bhattacharya
..for respondent no.9.

Mr. Debnarayan Patra
Mr. Pasupati Sana
..for the State

The petitioner alleges that respondent no. 9 has constructed a residential building by filling up land classified as a pond.

This constitutes the second round of litigation. The earlier writ petition filed by the petitioner, WPA 302 of 2025 (Rabindra Nath Modak vs. The State of West Bengal & Ors.), was disposed of by a Co-ordinate Bench by an order dated April 4, 2025, directing, inter alia, the concerned Pradhan of the Gram Panchayat to consider the petitioner's case in accordance with law.

Pursuant thereto, the Pradhan passed an order on August 19, 2025, declining to refer the

matter to the Sub-Divisional Officer under Section 23(5) of the West Bengal Panchayat Act, 1973.

The relevant portion of the order is quoted below:

“From the spot enquiry the following points have been observed.

1. *L.R. Plot no.644 corresponding to R.S. plot no.618 Mouza Mallikpur (JL no.-40) is of an area with 29 decimal which is classified as **Pukur Par**.*
2. *L. R. Plot no.645 corresponding to R.S. plot no.619 of mouza Mallikpur (JL no.40) is of an area with 36 decimal which is classified as Pukur is surrounded by said L.R. Plot no.645 in three sides.*
3. *Due to natural course of breaking of the pond's embankment, the average length of the pond in the middle reaches up to 170 feet than that of its actual length 150 feet (as per L.R. map). So the area of the pond becomes larger with an area of 40 decimal than that of its actual recorded area 36 decimal. In consequence of that, the length of L.R. Plot no.644 (which is **Pukur Par**) becomes shorter in the eastern side and it has been reduced to an average of 30 feet than that of its actual length 42 feet. (the portion involved in the instant WPA).*
4. *In plot no.644, just by the side of the village, a permanent brick built dwelling house has been constructed by Madhabi Sardar, w/o- Porimol Sardar (Defendant no.9 of the instant WPA) Covering an area of 994 sqft. (average 35 feet 6 inches in length and 28 feet in breadth) The distance of the said katcha structure from the water body is 27 feet in north eastern corner and 35 feet in eastern corner. A katcha structure is also present with an area of 90 sft. (10 feet in length and 9 feet in breadth). The distance of the said structure from the water body is an average of 23 feet.*

5. *Going through the Notification being no.3538-LP/5M-05/22 dated 10.08.2022 of the Land Reforms Commissioner & Secretary, Land & Land Reforms and Refugee Relief & Rehabilitation Department, Land Policy Branch, Nabanna, it is learnt that conversion may be allowed, if minimum 15 feet be left unaltered from the edge of the water body.*

*So, after measurement with the help of the mouza map, consulting Record-of-Rights and **considering the natural phenomenon**, nothing adverse from the respondents has been observed.”*

Learned counsel appearing for the respondents submits that the construction in question is temporary in nature and was carried out in the year 2012. At this stage, the petitioner cannot contend that the construction has been undertaken without any sanctioned plan.

Be that as it may, I have reproduced the observations of the Pradhan in his order dated August 19, 2025, which are based on the facts as found by him.

In my view, there is no scope in this writ petition to re-appreciate the factual aspects involved in the matter.

Accordingly, WPA 25764 of 2025 is dismissed, without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)