06.11.2026
Item no.10.
Ct. No.03.
Suman

WPA 31336 of 2026

Parimal Biswas and Ors.
Vs.
The State of West Bengal and Ors.

Mr. Gazi Faruque Hossain
...for the petitioner

Ms. Tapasi Palit Sinha
Mr. Debashish Basak
Mr. Arghya Chatterjee
..for the State

The father of the petitioners (since deceased) filed a Title Suit against the State of West Bengal before the First Court of Munsif at Malda. The said suit was decreed in part in favour of the petitioners' father.

The State of West Bengal, being aggrieved by the judgment and decree passed in the said civil suit, preferred an appeal being Title Appeal No. 31 of 1985. The District Judge, Malda, by a judgment and decree dated 21st September, 1987, dismissed the appeal, inter alia, observing as follows:

"ordered

that the appeal is dismissed on contest but in the circumstances of the case without costs. Judgement and decree passed by the learned Munsif are hereby affirmed subject to the modifications mentioned hereinafter.

The finding of the learned Munsif that the plaintiff is not entitled to an order of injunction restraining the defendants from interfering with the possession of the plaintiff in the suit tank is set aside. In addition to the decree for declaration as passed by the learned Munsif the plaintiff do also get a decree for injunction restraining the defendants from interfering with the plff's possession in the suit tank till his eviction therefrom in due course of law."

It is pertinent to mention that the dispute in the said suit as well as in the connected appeal was in connection with a plot no. 1379 of Mouza Dalla, P.S. Habibpur, District - Malda.

The petitioners submit that the Pradhan, Baidyapur Gram Panchayat, all of a sudden, issued a notice dated 29th September, 2026, inviting applications for auction in respect of certain water bodies/huts etc. for a period of two years, including the pond of the petitioner, as would appear from serial no. 17 of the said notice.

The petitioners, being aggrieved by the aforesaid action, have filed this instant writ petition.

Learned advocate appearing for the petitioners submits that the issue with regard to the right of the petitioners' father to possess the said pond had already been decided by the Civil Court. Therefore, the Pradhan, Baidyapur Gram Panchayat cannot invite applications for auction of the said pond.

The learned advocate appearing for the State respondents is present. He has handed over reports prepared by the Block Land & Land Reforms Officer, Habibpur, Malda and the Inspector-in-Charge, Habibpur, Malda, which are taken on record.

Having considered the submissions of the petitioners and the respondents and the materials on record, it appears that by the judgment and decree dated 21st September, 1987, passed in Title Appeal No.31 of 1985, the District Judge, Malda, granted an order of injunction restraining the defendants from interfering with the possession of the petitioners' deceased father in respect of the said pond unti his eviction therefrom in due course of law.

In view of the above, the decision of the Pradhan, Baidyapur Gram Panchayat to incorporate the plot no. 1379 in the notice inviting applications for auction dated 29th September, 2026, is wholly illegal.

In such circumstances, the Pradhan, Baidyapur Gram Panchayat is restrained from inviting or considering any application for auction in respect of plot no. 1379. If any action has already been taken by the concerned Pradhan in this regard, the same is set aside and quashed.

It is made clear that the above directions are restricted to only the plot in question bearing no. 1379.

Accordingly, **WPA 31336 of 2026** stands disposed of.

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

(Arjun Ray Mukherjee, J.)