

19.02.2026
Item No.6 (DL)
Court No.551
AJ.

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION**

W.P.A. 28532 of 2025

Suraj Kanta Maity

-Vs-

The State of West Bengal & Ors.

Mr. Aritra Roy Chowdhury,
Mr. Shibasis Chatterjee.
...for the petitioner.

Mr. Sayan Banerjee,
Ms. Suparna Dutta.
...for the respondent nos.7 to 10.

1. Affidavit of service filed on behalf of the petitioner be kept with the record. None appears for the State respondents despite service.

2. This writ petition has been filed alleging inaction on the part of the respondent State authorities in removing encroachment of an unauthorized construction over Government land.

3. It is the petitioner's case that earlier, the petitioner's brother had approached this Court by filing WPA 8252 of 2020 alleging inaction on the part of the respondent State authorities in not taking steps for removal of encroachment despite representation in such regard having been made to the respondent State authorities.

4. Such writ petition was disposed of by an order dated December 22, 2021 thereby directing the respondent no.5 therein i.e. the Sub-Divisional

Officer, Kharagpur to consider the petitioner's representation in accordance with law upon giving adequate opportunity of hearing to all interested parties.

5. In terms of the said order, the Sub-Divisional Magistrate, Kharagpur has passed an order dated September 30, 2024 thereby directing removal of encroachments over the subject Government land and recovery of possession thereof. Despite such order having been passed, since the encroachments still remain, the petitioner has approached this Court.

6. At the outset it is submitted by the learned Advocate appearing for the respondent nos. 8 to 11 that the petitioner's remedy may have been in filing an application for contempt and not a fresh writ petition.

7. He thereafter submits that this writ petition is not maintainable inasmuch as the petitioner herein was not the writ petitioner in WPA 8252 of 2020 and as such the petitioner cannot seek implementation of the order of the Sub-Divisional Officer passed in terms of the order passed by this Court in WPA 8252 of 2020. It is further submitted that another writ petition at the instance of the petitioner's brother who was the writ petitioner in WPA 8252 of 2020 is also pending before this Court.

8. Heard learned Advocates appearing for the respective parties and considered the material-on-record.

9. The objections raised by the learned Advocate appearing for the private respondents, the same would not detain the Court for long. It is evident from the tone and tenor of the writ petition that the writ petition is based on a different cause of action inasmuch as it now seeks implementation of the order passed by the Sub-Divisional Magistrate which has not been executed despite having been passed as far back as on September 30, 2024 while the earlier writ petition filed by the petitioner's brother had been filed against inaction of the relevant authority in considering the petitioner's representation. That apart it is evident from the order dated December 22, 2021 that this Court had directed opportunity of hearing to be afforded to all interested parties. The petitioner who claims to be residing by the side of the same Government land encroachment whereof had been alleged by the petitioner's brother in the earlier writ petition is definitely an interested party. In such view of the matter, this writ petition can be entertained at his behest.

10. The contention of the learned Advocate for the private respondents that contempt application is the appropriate remedy cannot be countenanced for

the same reasons as indicated above. As already indicated hereinabove, the allegation here is non-implementation of the order passed by the Sub-Divisional Officer. Secondly, it is not the law that independent writ petition cannot be maintained in cases like the one at hand. It is well settled that scope of enquiry in contempt proceedings is limited and restricted to the directions explicit in the order whereof contempt is alleged.

11. In the instant case, since an order has been passed by the Sub-Divisional Magistrate upon initiating proceedings under the West Bengal Public Land (Eviction of Unauthorized Occupants) Act, 1962 in terms of an earlier order of this Court in WPA 8252 of 2020, the said order must be executed and implemented unless the same has been stayed or otherwise interfered with by any higher forum.

12. In such view of the matter, the respondent no.5 is directed to take expeditious steps to ensure implementation of the order dated September 30, 2024 (page 17 of the writ petition) unless such order has been stayed or interfered with by any higher forum, within a period of four weeks from the date of communication of this order.

13. WPA 28532 of 2025 thus stands disposed of. No costs.

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

(Om Narayan Rai, J.)