

Sl. No.ML708
08.01.2026
Suman
Ct. 15

WPA 29616 of 2024

Mohanta Ghosh
Vs.
The State of West Bengal and Ors.

Mr. Syamal Kumar Das
Ms. Smita Pal

..for the petitioner

Ms. Sabnam De Bardhan

..for the State

Learned counsel appearing for the petitioner alleges that the concerned Panchayat authority has granted a sanctioned plan for construction of a building on land jointly owned by the petitioner and respondent nos. 7 and 8.

It is further alleged that the land in question has not been partitioned by metes and bounds and, therefore, the Panchayat authority could not have granted a sanctioned plan for construction of a residential building on an unpartitioned property.

The State has produced a report in this regard.

Learned counsel appearing for the State submits that the petitioner has already instituted a

title suit before the competent civil court and has also filed an application for injunction in connection with the said suit, seeking to restrain respondent nos. 7 and 8 from undertaking any construction work.

I am of the view that the petitioner cannot be permitted to pursue parallel proceedings before two forums simultaneously in respect of the self-same construction. The real dispute between the parties is essentially civil in nature.

Indeed, there is no absolute prohibition against construction by a co-sharer on undivided property under his possession. This legal principle stands affirmed by the Division Bench decision reported in **(2008) 2 CHN 396 (Yograj Gurung v. Aikon Network Marketing Private Limited)**.

The writ court cannot be utilised as an alternative forum to secure indirectly what is not available directly in a civil proceeding.

The dismissal of this writ petition, however, shall not have any bearing on the pending civil suit between the parties.

The petitioner shall be at liberty to file an appropriate application before the competent civil court for redressal of his grievances.

Accordingly, **WPA 29616 of 2024** is dismissed.

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.)