

16.06.2026
Sl. No.26
Ct. No.6
ss

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

W.P.A. No. 648 of 2026

**Prasanta Bikram Thapa
versus
The State of West Bengal & Ors.**

Mr. Deborshi Dhar
Mr. Nirnnay Datta
Ms. Taniya Bhowmik
...for the Petitioner.

Mr. Kunaljit Bhattacharjee, Ld. AGP
Mrs. Rajni Singh Dev
...for the State.

Mr. Nabankur Paul
Ms. Sutapa Sen Paul
Mr. Bodhisatya Ghosh
Ms. Brihannita Debnath
... for the respondent nos.8 and 9

1. On the prayer of the learned Advocate for the petitioner, leave is granted to implead the Sub-Divisional Officer, Siliguri, as an added respondent no.10 in the cause-title of the writ petition.
2. By the present writ petition, the petitioner seeks direction upon the respondent authorities for demolition of illegal and unauthorised construction undertaken by the private respondent nos.7, 8 and 9 in terms of the provisions contained in West Bengal Panchayat

Act, 1973 (*hereinafter referred to as 'the Act of 1973'*).

3. The petitioner contends that the petitioner jointly with other legal heirs and successors of one Late Dhanmaya Brahmani are the true and lawful lessee of a landed property admeasuring 1, 88, 179.2 Square Feet or 261 *Katha* 5.76 *Chhataks* or 4.32 Acres more or less, appertaining to and comprised in R.S. Plot Nos.11, 12, 13, 14, 19, 20 and 26 of Mouza-Matigara Hat, Sheet No.1, J.L. No.80 within the jurisdiction of Police Station-Matigara, District-Darjeeling and they are peacefully occupying, holding, using, enjoying and possessing the aforementioned land belonging to Darjeeling Improvement Fund Administration on payment. The private respondent nos.7, 8 and 9 have raised illegal and unauthorised construction of building over the land belonging to Darjeeling Improvement Fund Administration. On 17th February, 2026 the petitioner submitted a complaint before the Block Development Officer, Matigara Development Block as well as other authorities seeking redressal of his

grievance. However, no steps were taken. Hence this writ petition.

4. Mr. Deborshi Dhar, learned Advocate appearing on behalf of the petitioner submits that appropriate orders be passed for demolition of illegal and unauthorised construction undertaken by the respondent nos.7, 8 and 9 over the land belonging to Darjeeling Improvement Fund Administration.
5. Mr. Kunaljit Bhattacharjee, learned Additional Government Pleader submits that for the purpose of causing enquiry into the complaint of the petitioner, notice were issued by the concerned authority to the private respondents and an enquiry was conducted in presence of private respondent nos.8 & 9 by the Assistant Engineer, Siliguri Mahakuma Parishad. Respondent no.7 was not present during enquiry to ill health. Upon completion of enquiry, inspection report has already been submitted by the Assistant Engineer, Siliguri Mahakuma Parishad before respondent no.5, the Block Development Officer, Matigara Development Block and the *ex-officio* Executive Officer, Matigara

Panchayat Samiti. During enquiry no sanctioned building plan could be produced by the private respondents. In such event, referring to Section 114A(5) of the Act of 1973 he submits that the Executive Officer of *Panchayat Samity* is to refer the matter to the Sub-Divisional Officer for further course of action. He informs the court that the subject area falls under Matigara Panchayat Samiti. He files copy of notice dated 8th June, 2026, letter of request dated 8th June, 2026 for causing enquiry of the Executive Officer, Matigara Panchayat Samity and the inspection report of Assistant Engineer, Siliguri Mahakuma Parishad dated 12th June, 2026, which are taken on record.

6. Mr. Nabankur Paul, learned Advocate representing the private respondent nos.7, 8 and 9 denies and disputes the allegations made in the writ petition. However, he concedes that if the hearing is held by the Sub-Divisional Officer in terms of Section 114A(5) of Act of 1973, he has got no objection subject to notice being served upon his clients.

7. It is not in dispute that an enquiry in respect of complaint of the petitioner has already been conducted by the Assistant Engineer, WBSRDA, Siliguri Mahakuma Parishad in presence of private respondent nos.8 & 9 upon notice and an inspection report has been submitted by it before respondent no.5, *ex-officio* Executive Officer, Matigara Panchayat Samity. Respondent no.7 though was given notice but was not present during enquiry due to ill health. The report reveals that no sanction building plan could be produced during enquiry and no office records of any sanctioned building plan in the names of the private respondents were found. As per the report the building of respondent no.7 is a 5 storied building whereas respondent no.8 & 9 are having three storied building each. Thus, it manifest that no sanctioned building plan is available against such buildings of the private respondents.
8. At this stage it would be profitable to reproduce section 114A(5) of the Act of 1973 as hereunder:

“(5) Where any new structure or new building or any addition to any

structure or building is being or has been erected or made, as the case may be, in contravention of the provisions of sub-section (1), the Panchayat Samiti shall refer the matter to the Sub-Divisional Officer concerned who may after giving the owner of such building an opportunity of being heard, make an order directing the demolition of the building or a portion of the building, as the case may be, by the owner within such period as may be specified in order and in default, the Sub-Divisional Officer may itself effect the demolition and impose a fine as may be specified by the State Government and recover the cost thereof from the owner as a public demand.”

9. Bearing in mind the aforesaid provisions since the erection of the said buildings by private respondents is made in contravention of sub-section (1) of section 114A of the Act of 1973, *Panchayat Samiti* has to refer the matter to the concerned Sub-Divisional Officer for further action in terms of section 114A (5) of the Act.
10. In view of the above, respondent no.5, the Block Development Officer, Matigara Development Block and the *ex-officio* Executive Officer, Matigara Panchayat Samiti is directed to refer the matter to the Sub-Divisional Officer, Siliguri added respondent no.10 who shall take appropriate steps as per Section 114A

- (5) of the Act of 1973 and pass order upon giving opportunity of hearing to the parties in accordance with law, within a period of six weeks from the date of communication of this order.
11. The order shall be communicated to the parties.
 12. Liberty is granted to the parties to produce relevant documents at the time of hearing.
 13. With the aforesaid direction, the writ petition being **WPA 648 of 2026** stands disposed of.
 14. Petitioner is directed to communicate this order to the respondent no.5, the Block Development Officer, Matigara Development Block and the *ex-officio* Executive Officer, Matigara Panchayat Samiti, for necessary compliance.
 15. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
 16. Interim order, if any, stands vacated.
 17. All connected applications, if any, stand disposed of.
 18. There shall be no order as to costs.

19. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
20. Urgent Photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)