

**Item No. 172**

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE**

HEARD ON : 08.09.2026

DELIVERED ON : 08.09.2026

**CORAM:**

**THE HON'BLE JUSTICE PARTHA SARATHI SEN**

**WPA/22289/2025  
KABITA MANNA & ANR.  
VS  
STATE OF WEST BENGAL AND ORS.**

**Appearance:-**

Mr. Kallol Kumar Basu  
Mr. Nilanjan Pal  
Mr. Sabyasachi Mondal  
Mr. A.S. Fazlul Karim  
Mr. Sarthak Dey  
Ms. Payel Khanra

...For Petitioners

Mr. P.R. Chakraborty

... For Respondent Nos.22 to 28

Mr. Lokenath Chatterjee, Ld. JSC  
Ms. Mary Datta  
Mr. Amrita Lal Dhar  
Mr. Rhitam Chatterjee  
Mr. Jagannath Chatterjee

...For State

**JUDGMENT (ORAL)**

1. By filing the instant writ petition the writ petitioners have prayed for issuance of appropriate writ or writs against the

respondent authorities commanding them to pay compensation to the writ petitioners for the alleged demolition of the entire building of the writ petitioners in LR Plot No.650 in Mouza-Naikuri Jagannathchak, P.S.-Tamluk, District-Purba Medinipur with a further prayer for a declaration that the demolition of the entire building of the writ petitioners in the said LR Plot No.650 is illegal and not in accordance with law with a further prayer for issuance of appropriate writ or writs against the respondent authorities commanding them to undertake restitution of the writ petitioners' demolished building at the cost of the respondent authorities alongwith other ancillary reliefs.

2. The instant writ petition has a chequered history and those are required to be dealt with in a nutshell for effective adjudication of the instant writ petition. The facts are as under.

- i) By filing WPA 11887 of 2024 one Manoranjan Majhi and another alleged illegal construction over the PWD road at the instance of the present writ petitioners, which came to be disposed of by a coordinate Bench of this Court on 08.08.2024 whereby and whereunder the said

coordinate Bench directed the concerned respondents therein to take appropriate steps, in the event, the said authorities noticed that there exists illegal encroachment over the PWD road while passing its reasoned order upon hearing the parties.

- ii) The jurisdictional executive engineer in a proceeding under Section 10(2) of the West Bengal Highways Act, 1964 (“the said Act” in short) by its order dated 12.09.2024 proceeded to pass a reasoned order in terms of the order dated 08.08.2024 as passed by this High Court in WPA 11887 of 2024 and in doing so the said jurisdictional executive engineer noticed that a fresh demarcation report on the government plot is required for passing such reasoned order. It is pertinent to mention herein that before the said jurisdictional executive engineer a report dated 10.09.2024 alongwith a sketch map has been filed, copies of which have been annexed at page no.36A to 36C of the instant writ petition.
- iii) Soon thereafter one Munmun Bhakat Jana filed a writ petition, being WPA 11879 of 2024, against the

respondent State as well as against the present writ petitioners as private respondents alleging illegal encroachment of the PWD road and in the said writ petition, being WPA 11879 of 2024, another coordinate Bench of this Court noticed that the jurisdictional BL & LRO caused inspection at the disputed plot of land through its Revenue Inspector and submitted a report dated **10.9.2024** with the jurisdictional executive engineer and thus again directed the said jurisdictional engineer to pass a reasoned order with regard to the alleged encroachment over the government land and in the event such reasoned order is in affirmative, the jurisdictional executive engineer is directed to take consequential steps.

- iv) Pursuant to the subsequent order dated 5.11.2024 as well as the previous order dated 8.8.2024 as passed by this Court in the aforementioned two writ petitions the jurisdictional executive engineer in a proceeding under Section 10(2) of the said Act passed an order for removal of encroachment over LR Plot No.01 and 12 of Mouza-Maishali.

- v) Since the present writ petitioners, being the alleged encroachers, allegedly did not remove their encroachment from the government plot of land, being LR Plot Nos.1 and 12 a proceeding under Section 10(3) of the said Act, being Case No.01 of 2025, was initiated before the jurisdictional Sub-Divisional Magistrate. In the said proceeding the said Sub-Divisional Magistrate again directed the jurisdictional BL & LRO to submit a fresh demarcation report a copy of which has been annexed at page nos.48 to 50 of the instant writ petition which has been recorded in the order no.4 dated 18.03.2025 by the said jurisdiction sub-Divisional Magistrate in Case No.1 of 2025.
- vi) The said proceeding under Section 10(3) of the said Act was challenged at the instance of the writ petitioners by filing WPA 2538 of 2025 wherein this Court by its order dated 24.03.2025 passed an ad interim order of stay of all further proceedings in Case No.1 of 2025.
- vii) The said order dated 24.3.2025 passed in WPA 2538 of 2025 was carried into an intra Court appeal at the instance of the private respondents by filing MAT 610 of

2025 before a Division Bench of this Court. By an order dated 19.5.2025 an Hon'ble Division Bench of this Court directed the State to submit a report that it removed all encroachments, if there be any, on the road, the immediate Nayanajuli on plot no.1.

- viii) On 19.5.2025 the said Hon'ble Division Bench on consideration of the report of the State recorded that the State has demolished the unauthorized construction appearing at plot no.1. Learned advocate appearing on behalf of the private respondents therein, who are the writ petitioners herein, contended before the Hon'ble Division bench that the authorities proceeded to demolish the construction which caused on the other portion also. The Hon'ble Division bench disposed of the said intra-Court appeal, being MAT 610 of 2025, with liberty to the private respondents therein (the writ petitioners herein) to avail their remedies, if there be any, before the appropriate authority with regard to the allegation of excess demolition.
- ix) Pursuant to such liberty the writ petitioners approached this Court by saying that while carrying out the

demolition as per the order of the Division Bench the respondent authorities have demolished the building as raised by the writ petitioners over LR Plot No.650 in Mouza- Naikuri Jagannathchak, PS-Tamluk, District- Purba Medinipur

3. At the time of hearing Mr. Pal, learned advocate duly led by Mr. Basu, learned advocate appearing on behalf of the writ petitioners at the very outset draws attention of this Court to the supplementary affidavit as filed before this Court. It is submitted by Mr. Pal that by way of supplementary affidavit sufficient materials have been placed before this Court that the present writ petitioners are the raiyats in respect of LR Plot No.650 and after obtaining sanction plan from the local Gram Panchayat authority a two-storied commercial building has been constructed and further the writ petitioner no.2 was carrying on his business in the said building in the name and style of M/s. Sreedhar Engineering Company. Drawing attention to different pages of the instant writ petition it is argued that on perusal of the demarcation report of the jurisdictional BL & LRO dated 10.09.2024 as available at page nos.36A to 36C it would reveal that the plot nos.649, 650, 1

and 12 are all contiguous land, of which the writ petitioners are the owners of the LR Plot No.650 whereas the plot nos.1 and 2 are the government lands. Placing his reliance upon page no.36C of the writ petition, being the sketch map, as prepared by the jurisdictional Revenue Inspector on 10.09.2024 it is argued by Mr. Pal that on physical verification at the disputed lands the said jurisdictional Revenue Inspector noticed encroachment over plot nos.1 and 12 as has been delineated therein with the letter 'A'. At this juncture Mr. Pal again took me to the subsequent demarcation report with sketch map as prepared by the jurisdictional Revenue Inspector on 17.03.2025. It is argued by Mr. Pal that in the subsequent sketch map dated 17.03.2025 the jurisdictional Revenue Inspector again noticed similar encroachment over plot nos.1 and 12. Mr. Pal submits that admittedly by the order of the Hon'ble Division Bench in MAT 610 of 2025 the said encroachment has been removed fully from the plot nos.1 and 2. However, at the same time the respondent authorities have exceeded their limit by carrying out demolition process not only in respect of plot nos.1 and 2 but also in LR Plot no.650 which would be

evident from page no.121 of the instant writ petition. He also placed his reliance upon the photographs as have been annexed to the instant writ petition.

4. It is submitted by Mr. Pal that on careful perusal of the wordings of the attendance sheet as available in page no. 121 of the writ petition, it would reveal that the authorities before the Hon'ble Division Bench categorically reported that removal of all encroachment took place to the extent in front of the rayoti land of RS Plot Nos.613 and LR Plot No. 649. It is argued by Mr. Pal that on conjoint study of the sketch map dated 10.09.2024 as available at page no.36C and the sketch map dated 17.3.2025 as available at page no.50 of the instant writ petition as has been drawn by the jurisdictional Revenue Inspector vis-à-vis the wordings of the attendance sheet as available at page no.121 of the instant writ petition it would reveal that the respondent authorities have categorically admitted that their demolition process extended in front of LR Plot No.649 which covers LR Plot No.650, which is never a government land and on the contrary is a rayoti land of the writ petitioners. It is, thus, submitted by Mr. Pal that in the instant writ petition the writ petitioners are entitled to the

reliefs as prayed for which are both restitutory and compensatory in nature.

5. Mr. Chakraborti, learned advocate appearing on behalf of the respondent no.2 to 28 supported the case of Mr. Pal, learned advocate, who is led by Mr. Basu, learned advocate.
6. Per contra, Mr. Chatterjee, learned advocate appearing on behalf of the respondent/State submits before this Court that the writ petitioners have miserably failed to produce a single scrap of papers to substantiate that while undertaking demolition process as per direction of the Hon'ble Division Bench of this Court the respondent authorities have exceeded their limits. It is submitted by Mr. Chatterjee that in their affidavit-in-opposition the respondents have specifically disputed the correctness of the allegations as made in the writ petition.
7. It is further argued by Mr. Chatterjee that the instant writ petition involves the disputed question of facts, which cannot be adjudicated by this Court in sitting in writ jurisdiction. Mr. Chatterjee further submits that for effective adjudication of the instant writ petition an independent person may be

appointed to ascertain the correctness of the allegations made by the writ petitioners.

8. This Court has meticulously perused the entire materials as placed before this Court. This Court has given its due consideration over the submissions of the learned advocates for the contending parties. This is trite that a writ Court must not venture to entertain a writ petition where disputed questions of facts are involved since a writ Court lacks machinery regarding appreciation of evidence by taking depositions of witnesses either oral or documentary. However, in the event the alleged disputed facts are supported by sufficient evidence, in considered view of this Court a writ Court can entertain a writ petition. In other words, a writ Court has to decide a writ petition based on pleadings and evidence, if there be any. In view of such, this Court while disposing the instant writ petition will make a venture as to whether the pleadings of the writ petition are substantiated by sufficient evidence.

9. Coming to the factual aspects of this case it appears that on behalf of the writ petitioners sufficient documents have been filed to substantiate that LR Plot nos.649, 650, 1 and 12 are

all contiguous land as would be evident from the report of the Revenue Inspector dated 10.09.2024, which is not disputed by the respondent authorities. The subsequent field enquiry report as prepared by the jurisdictional Revenue Inspector on 17.03.2025 again shows that LR Plot nos.650, 1 and 12 are contiguous lands. It is equally pertinent to mention herein that in both the field sketch map dated 10.09.2024 and 17.03.2025 the jurisdictional Revenue Officer clearly indicated encroachment over LR Plot nos.1 and 12 with the letter "A". At this juncture, this Court proposes to quote of the attendance sheet in verbatim.

*"Attendance Sheet during the eviction programme in compliance with the Order dated 15.05.2025 as passed by the Hon'ble Justice Debangsu Basak & Md. Shabbar Rashidi, High Court at Calcutta, in respect of MAT 610 of 2025, IA No.CAN/1/2025, Manoranjan Maji & Ors. Vrs. Kabita Manna & Ors. The removal of encroachment has been carried out on this day, i.e. 17.05.2025 (Saturday) after confirmation of final demarcation of Govt. land, belongs to PWD Plot No.1, JL No.127, Mouza: Maishali, PS-Tamluk in front of Rayati land of RS Plot No.613, LR Plot No.649, JL No.103, MouzaL Naikuri Jagannathchak, PS-Tamluk by the side of Panskura-Durgachak Road in the district of Purba Medinipur, made by the representatives of BL & LRO, Tamluk-1, Naikuri, Purba Medinipur, in presence of below mentioned all the interested parties such as Petitioner of the instant case, all the*

*encroachers and all other concerned Govt. Officials.”*

10. On close scrutiny of the wordings of the aforementioned attendance sheet in the light of the aforementioned two sketch maps dated 10.09.2024 and 17.03.2025 as prepared by the jurisdictional Revenue Inspector it appears that before the Hon'ble Division Bench a report has been submitted by the respondent State that the demolition process has been carried out to the extent in front of rayati land of RS Plot Nos.613, LR Plot No.649 which definitely covers plot no.650 which is a rayoti land belonging to the writ petitioners.
11. In other words, in the event the wordings of the attendance sheet are looked in the light of the aforementioned two demarcation reports/ sketch maps as prepared by the jurisdictional Revenue Inspector, it reveals that in the said demolition process not only encroachment over plot nos.1 and 12 has been removed but also construction of the writ petitioners over LR Plot No.650 has been removed as otherwise the respondent authorities would have never indicated that demolition took place to the extent in front of rayoti land in respect of LR Plot No.649 since in the said two

sketch maps it has been clearly shown that LR Plot No. 649 and LR Plot No. 650 are contiguous but LR Plot No. 650 are contiguous but LR Plot Nos. 1 and 12 are not adjacent to LR Plot No. 649.

12. Materials have been placed before this Court on behalf of the writ petitioners that over the LR Plot No.650 the writ petitioners have two-storied building after obtaining sanction plan from Bishnubar-1 Gram Panchayat, Naikuri, Purba Medinipur wherein the writ petitioner no. 2 and private respondents were carrying on business.
13. In view of discussions made hereinabove, this Court finds no difficulty in reaching to a conclusion on the basis of the materials placed before it supported by sufficient evidence that the respondent authorities have exceeded their limit by dismantling and/or demolishing construction of the writ petitioners as existed over LR Plot no.650.
14. Consequently, the instant writ petition succeeds.
15. Consequently, the respondent no.2 is hereby directed to construct a new building for the writ petitioners in accordance with sanction plan as has been annexed as Annexure P-19 in the supplementary affidavit dated 10<sup>th</sup> March, 2026 to its

fullest extent positively within two years from the date of communication of the server copy of the judgment and to give possession thereof to the writ petitioners soon thereafter.

16. The time limits for completion of construction of the building by the respondent no.2 authority and to give possession is peremptory and mandatory.

17. Since the property of the writ petitioners has been demolished by the respondent authorities without any lawful authority, the respondent no.2 authority shall arrange alternative accommodation of the writ petitioners preferably in the same locality free of cost till they complete the construction and handover possession thereof to the writ petitioners.

18. As a compensatory measure this Court further directs the respondent no.2 authority to pay a further sum of Rs.10,00,000/- (rupees ten lakhs only) to the writ petitioners in two equal installments, out of which the first installment shall have to be paid by the last day of October 2026 and the second and last installment shall have to be paid by the last day of February 2027.

19. With the aforementioned observations, this writ petition is disposed of.
20. Urgent Photostat certified copy of this order, if applied for, be delivered to the learned advocates for the parties, upon compliance of all formalities.

**(PARTHA SARATHI SEN, J.)**

RP (AR. CT.)