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**(2018) 06 CAL CK 0114**  
**In the Calcutta High Court**  
**Case No : Writ Petition15148 (W) of 2015**

Binay Krishan Mondal

APPELLANT

Vs

State Of West Bengal & Ors.

RESPONDENT

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**Date of Decision :** 07-06-2018

**Acts Referred:**

Constitution of India, 1950 — Article 300A

**Citation :** (2018) 06 CAL CK 0114

**Hon'ble Judges :** SUBRATA TALUKDAR, J

**Bench :** Single Bench

**Advocate :** Arun Singha, Biswajit De, Rajlakshmi Ghatak

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## Judgement

The petitioner produces an Affidavit-of-Service as well as the notice of service on Learned State Counsel which are not contemporaneous. The

petitioner, when the matter was first taken up today, was therefore requested to inform Learned State Counsel that the matter shall be next taken up

at 1-00 p.m. today. The petitioner informs this Court that Learned State Counsel was informed that the matter would be taken up at 1-00 p.m. today.

Mr. Biswajit De, Learned Counsel, represents the State- respondents with Ms. Rajlakshmi Ghatak, Learned Advocate. None appears for the private

respondents. The facts of this case, as presented by Learned Advocate for the petitioner, are almost of a nature that shock the conscience of this

Court. The petitioner claims to be the absolute owner of a plot of land being Dag No. 743/2110, Khatian No. 1346, J.L. No. 25, Mouza-Patghara as

well as Dag No. 783/1032 of the same Mouza under Jogeshganj Panchayat, P.S. Hemnagar Coastal Police Station, District North 24 Parganas (the

said land in issue).

The petitioner further claims that the said land in issue is a Bastu land. The petitioner works for gain in a private organisation in Kolkata and his wife

normally residing at the residence of the petitioner, as recorded above and, looks after the said land in issue. The petitioner submits that in January,

2015 when his wife visited Kolkata for her medical treatment, on returning home on the 4th of February, 2015 she found that the private respondent

nos. 8 and 9 have started construction of a house on the said land absolutely owned by the petitioner. Being shocked at the construction made on his

said land, the petitioner has been running since from the proverbial pillar to post urging the concerned authorities to take the correct steps. It has

transpired to the knowledge of the petitioner and such is stated at paragraph 10 (ten) of the writ petition that the construction is being forcefully made

on the said land in issue on the strength of a purported sanction obtained by the respondent nos. 8 and 9 under the Indira Awaas Yojana (IAY).

This Court has had the opportunity to observe in similar litigation presented earlier that it is the duty of the concerned authority while sanctioning any

plan under any welfare scheme such as the IAY, to completely verify the documents and all other particulars claimed by the proposed beneficiaries

connected to ownership of any plot of land/lands in respect of which construction is intended to be raised since, in the event, the construction is

allowed at random, the constitutionally protected Right to Property of landholders, such as the present petitioner protected by Article 300A stood to be

deeply infringed.

Therefore, on the basis of the facts so far presented before this Court, this Court is of the view that the petitioner is in requirement of an interim

protection. Accordingly, in prima facie consideration of the enormity and gravity of the deprivation suffered by the petitioner, this Court directs the

District Magistrate, North 24 Parganas and the Superintendent of Police, North 24 Parganas to take steps to ensure that the parties, particularly the

private respondent nos. 8 and 9, shall maintain status quo as on date with regard to the construction in issue until the next date of hearing. Both the

District Magistrate, North 24-Parganas and the Superintendent of Police, North 24-Parganas shall file a Report through Learned State Counsel on the

next date.

The petitioner is granted leave to implead the District Magistrate and the

Superintendent of Police, North 24-Parganas as party respondents to the writ petition. Let copies of the writ petition along with copies of this order be also served by the petitioner on the added respondents. Let a fresh copy of the writ petition be handed over by the petitioner to Learned Counsel for the State Respondents. Let notice of this order be issued to the private respondent nos. 8 and 9 by the petitioner, who shall file a formal proof of such communication on the next date. Let the matter next appear under the heading 'Mentioned Matters' on the 21st of June, 2018.