

Form J(2)
Sl.No. 1
M.D

In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Aniruddha Roy

WPA 18036 of 2026

Surja Kanta Maity and Anr.
Vs.
The State of West Bengal and Ors.

For the Petitioners

:Mr. Debasish Das, Adv.

For the State

:Ms. Jayita Dhar Chakrabarty, Adv.
Mr. Saikat Karmakar, Adv.

Heard on

: August 4, 2026

Judgment on

: August 4, 2026

[In Court]

Aniruddha Roy, J. :

1. Upon urgency being pleaded by the petitioner and since the determination of the Regular Bench has been assigned before this Court, the matter has been taken up for consideration.
2. Affidavit-of-service, filed in Court today, is taken on record.
3. Mr. Debasish Das, learned Advocate appears for the petitioners.

4. Ms. Jayita Dhar Chakrabarty, learned Advocate appears for the State-respondents.
5. None appears for the private respondent nos. 10 to 15, despite notice.
6. The writ petitioners claimed to be owners of a land where they are dwelling. In front of their dwelling house and/or adjacent thereto the private respondents alleged to have constructed an unauthorized and illegal structure on a public land which is resisting free egress and ingress of the petitioners.
7. Initially an eviction proceeding was initiated by the State authorities against those private respondents when the private respondents filed a writ petition being **WPA 12380 of 2026**. In the said writ petition an order was passed dated **June 11, 2026 at page 42** to the instant writ petition whereunder the jurisdictional Sub-Divisional Magistrate was directed to consider the objection of the private respondents being the writ petitioners therein and dispose of the same by passing a reasoned order.
8. By an order dated **June 12, 2026 at page 49** to the writ petition and thereafter **June 19, 2026 at page 50** to the writ petition the jurisdictional **Sub-Divisional Officer** (not the Sub-Divisional Magistrate) passed orders directing the jurisdictional B.L.&L.R.O. to enquire into the matter by causing of field enquiry in presence of the parties/interested parties. Simultaneously, the B.L.&L.R.O. was directed to dispose of the

application for *patta* submitted by the private respondents herein under the provisions of the **West Bengal Land Reforms Act, 1955** (for short Land Reforms Act).

9. Being aggrieved by the said order dated **June 19, 2026** the petitioners on **July 7, 2026** had already preferred a statutory appeal under Section 7 of **the West Bengal Public Land (for Eviction of Unauthorized Occupants) Act, 1962** (hereinafter, 1962 Act). The said appeal is pending.
10. Mr. Debasish Das, learned Advocate appearing for the petitioners submit that, during pendency of this appeal the State authority is proceeding to settle the *patta* in favour of the private respondents herein pursuant to the direction made in the said impugned order dated **June 19, 2026**. He submits that, the order dated **June 19, 2026** is otherwise without jurisdiction and hence this writ petitioner seeking some protection.
11. Ms. Jayita Dhar Chakrabarty, learned State Advocate submits that, the competent authority may take steps in accordance with law.
12. After considering the rival contentions of the parties and upon perusal of the materials on record and on a careful scrutiny of the said order dated **June 19, 2026 at page 50** to the writ petition, it appears to this Court that, under the said order wherefrom the statutory appeal is pending before the jurisdictional appellate authority, the jurisdictional

B.L.&L.R.O. has been directed to dispose of the application claiming *patta* under the provisions of the Land Reforms Act, which was submitted by the private respondents herein. Since, a substantive statutory appeal is pending from a particular order, the directions in the said particular order cannot be segregated so that, the one part can be challenged before the appellate authority and for the other part petitioners shall approach in this high prerogative writ jurisdiction. Petitioners have remedy before the appellate authority itself to agitate the issue as the order is already under appeal before such statutory appellate authority.

13. In view of the above, petitioners shall be at liberty to mention the appeal before the jurisdictional appellate authority where the same is pending upon notice to the respondents in the appeal and in the event, such appeal is mentioned, the jurisdictional authority shall dispose of the appeal ***within two months*** from the date of mentioning by passing a reasoned order in accordance with law.
14. It is made clear that, this order shall not create any right or equity in favour of the petitioners and the appeal shall be decided by the appellate authority on its own merit and in accordance with law. This Court has not gone into the merits of the rival contentions of the parties and all points are kept open.

15. It is also made clear that, if any further step is taken by the State authority in respect of the plot in question, the same shall abide by the result of the appeal.
16. Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.
17. With the above observations and directions, this writ petition **WPA 18036 of 2026** stands ***disposed of***, without any order as to costs.
18. Parties shall be at liberty to take steps on the basis of the server copy of this order after the same being obtained from the Official Website.

(Aniruddha Roy, J.)