

01.09.2026
Ct. No.446
Sl. No.1
akd

W. P. A. 23729 of 2026

[Gita Sinha -Vs- The State of West Bengal & Ors.]

Mr. Kingsuk Mondal
Mr. Suman Moitra
Mrs. Shilpi Moitra
Mr. Suman Das

... ... for the petitioner

Mr. Amarendra Chakraborty
Ms. Rupsa Sreemani

... ... for the State

1. Affidavit-of-service filed in Court today is taken on record.
2. The present writ petition has been preferred primarily praying for the following reliefs :-

a) “A writ in the nature of *Mandamus* commanding the Respondent Authority(s) specifically the Respondent no. 5-The Chairman, Berhampore Municipality and the Respondent no. 6-The Executive Officer, Berhampore Municipality, to take all statutory actions for preventing and demolishing the illegal and unauthorized building construction being carried out by the Private Respondents on Plot No. LR 5837, measuring 1 decimal, Mouza: Saidabad, J.L. No. 100, Block and Police Station: Berhampore, under Berhampore Municipality, Ward No. 12, Manindra Road, District: Murshidabad in a time bound manner;”

3. Mr. Kingsuk Mondal, learned advocate appearing for the petitioner, submits that the residential building standing on Plot No. LR 5836, Mouza Saidabad, J.L. No. 100, Block and Police

Station Berhampore, within the jurisdiction of Berhampore Municipality, Ward No. 12, Manindra Road, District Murshidabad, is owned by the petitioner. He submits that the adjacent plot, being Plot No. LR 5837, is owned by the private respondents, who have undertaken construction of a multi-storied building thereon in contravention of the West Bengal Municipal Building Rules, 2007 (hereinafter referred to as “the 2007 Rules”).

4. He further submits that the entire construction is being made illegally without having any sanctioned building plan, as mandated by law, and without leaving any statutory space. Mr. Mondal also submits that this fact was brought to the notice of the concerned Municipality by submitting a representation dated 28th August, 2026. However, despite receipt of such representation, no effective steps have been taken by the concerned Municipality. This inaction has prompted the petitioner to prefer the present writ petition.

5. Mr. Amarendra Chakraborty, learned Advocate appearing for the State/respondents, submits that the municipal authority is the sole authority to decide the issue raised by the petitioner in his representation dated 28th August, 2026.

6. In response, Mr. Mondal, learned Advocate appearing for the petitioner, submits that the matter may be relegated to the municipal authority with a direction to cause an inspection to be conducted by the competent authority.

7. Despite service, none appears on behalf of the private respondents and Municipality.

8. Heard the learned Advocates appearing for both the parties and perused the materials on record.

9. Having regard to the facts and circumstances of the case and the respective stands of the parties, the writ petition is disposed of by directing the respondent no. 5 to conduct an inspection of the building constructed by the private respondents on Plot No. LR 5837, Mouza Saidabad, J.L. No. 100, Block and Police Station Berhampore, within the jurisdiction of Berhampore Municipality, Ward No. 12, Manindra Road, District Murshidabad. Such inspection shall be carried out by the respondent no. 5 personally or through an authorised representative, upon giving prior intimation of the date of inspection to the petitioner as well as the private respondents and shall be conducted in their presence.

10. If, upon inspection, it is found that the private respondents have raised any construction illegally or in contravention of the 2007 Rules, the concerned Municipality shall take appropriate steps in accordance with law, after affording an opportunity of personal hearing to both the petitioner and the private respondents. The entire exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order. In the meantime, the private respondents shall not carry out any further construction on Plot No. LR 5837, Mouza Saidabad, J.L. No. 100, Block and Police Station Berhampore, within the jurisdiction of Berhampore Municipality, Ward No. 12, Manindra Road, District Murshidabad.

11. With these observations and directions, WPA 23729 of 2026 is disposed of.

12. There shall be no order as to costs.

13. Let urgent Photostat certified copy of this order be made available to the parties, if applied for, upon compliance of usual formalities.

(Partha Sarathi Chatterjee, J.)