14.10.2026
Sl. No. 8
Ct No. 446
SG

WPA 24451 of 2026

Anil Kumar Bajaj
Vs
State of West Bengal & Ors.

Mr. Sarosij Dasgupta,
Mr. Uday Sharma.

...for the petitioner

Mr. Shiv Shankar Banerjee,
Mr. Vinayak Chaubey.

...for the State

1. Affidavit-of-service as filed by the petitioner is taken on record.

2. The writ petition has been preferred challenging the legality and/or justifiability of the order dated 7th August, 2026 passed by the District Magistrate, Sough 24 Parganas in compliance with the order dated 22nd January, 2026 passed by the Hon'ble Division Bench of this Court in WPA (P) 6 of 2026.

3. Mr. Dasgupta, learned Advocate appearing for the petitioner, submits that the petitioner, being the proprietor of Bajaj Enterprise, operates a brickfield at 34, Achipur Transfer Road, P.S. Pujali, South 24-Parganas, Kolkata – 700138. He submits that, pursuant to the order dated 22nd January, 2026, passed in WPA (P) 6 of 2026, the District Magistrate, South 24-Parganas, undertook an exercise to consider the representation submitted by the petitioner in the said writ petition, which had been instituted by a person alleging that the petitioner had encroached upon land belonging to the Irrigation Department, Government of West Bengal. He contends that, although the District Magistrate passed an order dated 7th August, 2026,

purportedly in compliance with the aforesaid order dated 22nd January, 2026, the same does not constitute compliance in its true sense, particularly having regard to the letter and spirit of the directions contained therein.

4. He submits that, by the order dated 22nd January, 2026, the District Magistrate was directed to obtain a field verification report and thereafter pass a reasoned order. Referring to the order dated 7th August, 2026, he submits that the same would reveal that a demarcation report dated 24th July, 2026, was placed before the District Magistrate, although, by an order dated 31st July, 2026, the District Magistrate had requested the ADM and DL&LRO, South 24-Parganas, to depute a District TA for the purpose of carrying out the demarcation before the next date of hearing, fixed on 7th August, 2026. He, therefore, contends that the order dated 7th August, 2026, was passed without obtaining the field verification report as directed by this Court on 22nd January, 2026. In view thereof, he submits that the order dated 7th August, 2026, is non est in the eye of law and cannot be given effect to.

5. He further submits that, in the order dated 7th August, 2026, it was recorded that neither the petitioner nor the respondents could identify or locate the portion of the parcel of land allegedly encroached upon by the petitioner.

6. Mr. Banerjee, learned Advocate appearing for the respondents, denies and disputes the contentions advanced on behalf of the petitioner. Referring to certain paragraphs of the writ petition, he submits that, although the petitioner has claimed to be operating the brickfield from premises situated at

34, Achipur Transfer Road, P.S. Pujali, South 24-Parganas, Kolkata – 700138, he has not identified the precise area of land upon which the said premises stand.

7. Referring to the document appearing at page 122 of the writ petition, issued by the concerned Block Development Officer to enable the petitioner to operate the brickfield, he submits that the said document refers to Plot Nos. 363, 364, 365 and 367. He, therefore, contends that no permission was granted to the petitioner to carry on any commercial activity on Plot No. 368. Despite the same, the petitioner has encroached upon 17 decimals of land comprised in Plot No. 368 with an ulterior motive. He further submits that the petitioner is attempting to create confusion regarding the demarcation of the portion of land allegedly encroached upon by him. He contends that, by adopting such means, the petitioner is attempting to obstruct the respondents from giving effect to the order dated 7th August, 2026.

8. He also refers to paragraph 19 of the writ petition and submits that the petitioner has specifically averred therein that he is ready and willing to surrender Plot No. 368. He contends that the petitioner has, in effect, admitted to having encroached upon a portion of the said plot, where he has installed machinery, including a chimney, and raised certain constructions for the purpose of operating the brickfield. He further refers to paragraph 9 of the writ petition, wherein it has been specifically averred that it is neither practicable nor possible for the petitioner to hand over vacant possession of the premises within the period stipulated in the impugned order.

Referring to paragraph 27 of the writ petition, Mr. Banerjee submits that the petitioner has averred therein that, upon a private inspection conducted by him, it was found that the area in his occupation comprised not 17 decimals, but, at the highest, 7.5 decimals of land forming part of Plot No. 368. He, therefore, contends that the petitioner is making contradictory statements with a view to protecting his alleged illegal and unauthorised encroachment.

9. In response, Mr. Dasgupta submits that the petitioner has already approached the competent authority with an application for grant of lease in respect of the said portion of land and that the same is pending for consideration.

10. Heard learned advocates appearing for the respective parties and perused the materials on record.

11. The records reveal that a public-spirited person instituted a writ petition in the nature of public interest litigation, being WPA (P) 6 of 2026, before the Hon'ble Division Bench of this Court, alleging inaction on the part of the District Magistrate, South 24-Parganas, in considering the representation dated 8th December, 2025, wherein it was alleged, inter alia, that the present petitioner had encroached upon a portion of Plot No. 368, belonging to the Irrigation Department, Government of West Bengal, and was operating a brickfield therefrom. Upon hearing the parties, including the present petitioner, the Hon'ble Division Bench disposed of the said writ petition by an order dated 22nd January, 2026, directing the District Magistrate to consider the representation in accordance with law, after affording an opportunity of

hearing to the writ petitioner and the private respondents or their authorised representatives. The District Magistrate was further directed to obtain a field verification report before passing a reasoned order on the representation and to communicate the same to the concerned parties.

12. Therefore, the order required the District Magistrate to dispose of the said representation after affording an opportunity of hearing to the writ petitioner and the private respondents therein and/or their authorised representatives. It was further incumbent upon the District Magistrate to obtain a field verification report before disposing of the said representation.

13. The order dated 7th August, 2026, records that a demarcation report dated 24th July, 2026, was placed before the District Magistrate and taken on record. The order dated 31st July, 2026, on the other hand, reveals that the District Magistrate had requested the ADM and DL&LRO, South 24-Parganas, to depute a District TA for the purpose of demarcation. The order dated 7th August, 2026, further records that the present petitioner admitted the factum of encroachment before the District Magistrate and stipulates that a copy of the demarcation report would be made available to the petitioner upon application. It, therefore, appears that the report dated 24th July, 2026, had been placed before the District Magistrate and considered by him while passing the order dated 7th August, 2026. The subsequent request dated 31st July, 2026, for deputing a District TA for demarcation does not, by itself, establish that the report dated 24th July, 2026, was not a field verification report. Merely because a different

nomenclature was used to describe the document dated 24th July, 2026, it cannot be concluded that the direction contained in the order dated 22nd January, 2026, was not complied with in its letter and spirit.

14. Admittedly, the permit issued by the Block Development Officer in favour of the petitioner authorises him to operate the brickfield on Plot Nos. 363, 364, 365 and 367. However, the petitioner has encroached upon Plot No. 368, which belongs to the Irrigation Department, Government of West Bengal, and such encroachment has been admitted by the petitioner in his statement on oath before this Court. The order dated 7th August, 2026, specifically records that the question of granting a lease in respect of Plot No. 368 in favour of the petitioner did not fall within the scope of consideration and that the competent department may take an appropriate decision if an application in that regard is submitted before it. In such circumstances, the mere pendency of an application seeking a lease in respect of the encroached portion of land cannot absolve the petitioner of his obligation to remove the unauthorised encroachment therefrom.

15. Public land is held in trust for the benefit of the community and ought to be utilised for public purposes in furtherance of the larger public interest. Such land cannot be permitted to be appropriated for private commercial gain by enabling an individual to operate a brickfield or carry on any other business therefrom, to the exclusion of its lawful and intended use.

16. Having regard to the facts and circumstances of the case and the submissions advanced by the learned Advocates appearing for the respective parties, I find no ground warranting interference by this Court. The writ petition, being devoid of merit, is accordingly dismissed. However, there shall be no order as to costs.

17. After the order was dictated, Mr. Dasgupta, learned Advocate appearing for the petitioner, prays for an extension of time to remove the unauthorised encroachment from Plot No. 368. In view of such submission, the petitioner is granted six weeks' time from date to remove all unauthorised encroachments from the said plot, failing which the respondents shall be at liberty to take all appropriate steps in accordance with law to ensure removal of such unauthorised encroachment.

18. Let urgent Photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Partha Sarathi Chatterjee, J.)