

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 1968 of 2026

Subrota Kumar Biswas
Versus
The State of West Bengal & Ors.

Mr. Ayan Banerjee
Mr. Proshit Deb
Ms. R. Seal

... For the petitioner

Mr. Sankha Subhra Ray

... For the municipality

1. The affidavit-of-service filed in Court today is taken on record. Despite service, the private respondent is not represented. The petitioner claims that the private respondent has been constructing on common passage/municipal road which is leading to the petitioner's premises being 13/9, Priyanath Ghosh Street. Records reveal that the petitioner has previously filed a title suit seeking a decree for permanent injunction against the defendant in respect of the suit property which also includes the common passage/municipal road where the construction has come up. The petitioner did not succeed in the suit and the suit was dismissed on contest. The petitioner now wants the municipality to remove the construction from the common passage which is a municipal road and insist for a mandatory direction from this Court. In this context, it would be relevant to note that from the

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decree it would transpire that while deciding issue Nos. 3, 4 and 5, the learned Court had noted that the defendants had been able to prove that schedule 'B' property is a pathway which was in the master plan as well as in the site plan of the defendants and later on Kamarhati Municipality has approved the pathway, the said pathway is being used not only by the plaintiffs but also by the common people as well as the defendants. The pathway is metal pathway and the same is admitted by the plaintiff as common land in their plaint.

2. Having regard to the above observations made in the decree, and though despite service the private respondent remains unrepresented, I am of the view the municipal authorities must immediately take appropriate recourse against any illegal encroachment on the above pathway. Needless to note that if any encroachment has made, the municipality must take steps and remove the same. The municipal is accordingly directed to file a report before this Court on or before the matter is taken up next.
3. List this matter in the combined monthly list of July, 2026.

(Raja Basu Chowdhury, J.)