

13.07.2026
Item No.12
Ct. No. 19
PG

WPA 16206 of 2026

**Samir @ Semir & Ors.
Vs.
State of West Bengal & Ors.**

Mr. Debasish Banerjee
Ms. Debamitra Bharadwaj
Ms. Sumitra Das
Ms. Srijata Mukherjee
Ms. Sananda Chatterjee
Mr. Rakesh Janafor the petitioners

Mr. Nilanjan Bhattacharjee, Sr. Adv.
Ms. Jayita Dhar Chakraborty
Mr. Nilanjan Palfor the State

1. The writ petitioners and the respondent/State are represented by their respective learned counsel.
2. On perusal of the affidavit of service, as filed today on behalf of the writ petitioners, it reveals that notice was sent to the private respondent only on 10.07.2026 and from the track report, it however, does not transpire that the said notice has been received by the private respondent.
3. Despite such fact, considering the urgency, this Court is constrained to take up hearing of the instant writ petition.
4. The subject-matter of challenge in the instant writ petition is the order dated 22.06.2026, as passed by the respondent no. 2 authority in

Case No. 165-MR/25 (State vs. Samir & Others). By the impugned order, the respondent no. 2 authority directed the jurisdictional Assistant Engineer to comply with the orders dated 02.07.2025 and 10.12.2025. It is pertinent to mention herein that the copy of the order dated 02.07.2025, as passed by the respondent no. 2 has been annexed at page no. 33 of the instant writ petition. However, copy of the order dated 10.12.2025 is not annexed.

5. At the time of hearing, learned advocate appearing on behalf of the writ petitioners draws attention of this Court to page nos. 35 to 39A of the instant writ petition being a copy of the memo of appeal, as preferred against the said order dated 02.07.2025 before the jurisdictional Collector i.e. the respondent no. 3 under section 7(1)(b) of the West Bengal Public Land (Eviction of Unauthorised Occupants) Act, 1962 ('Act of 1962' for short).
6. Drawing attention to page no. 40 of the instant writ petition, being a copy of the memo dated 16.11.2025, it is submitted that under cover of the said memo dated 16.11.2025, the jurisdictional Collector i.e. the respondent no. 3 authority declined to accept the appeal, as

preferred by the writ petitioners showing the provisions of section 7(1)(a) of the Act of 1962.

7. It is submitted on behalf of the writ petitioners that since the order dated 22.06.2026 was passed by the S.D.O. i.e. the respondent no. 2 authority, an appeal shall lie under section 7(1) (b) of the Act of 1962 before the Collector i.e. the respondent no. 3 authority.
8. It is thus, submitted that on account of non-acceptance of the appeal by the respondent no. 3 authority, the writ petitioners could not get any forum to prefer the appeal and thus, the order impugned dated 22.06.2026 may be interfered with.
9. Mr. Bhattacharjee, learned senior counsel, duly assisted by Mr. Pal, learned advocate however, draws attention of this Court to section 2(1)(b) of the Act of 1962. It is submitted by Mr. Bhattacharjee that in the Act of 1962, a Collector other than in Calcutta includes a Sub-Divisional Judicial Magistrate, i.e. the SDO also.
10. It is, thus, submitted that the respondent no. 3 authority is very much justified in issuing the memo dated 16.11.2025 since the respondent no. 3 noticed that the present writ petitioners have chosen a wrong forum for

preferring the appeal challenging the said order dated 02.07.2025.

11. On careful perusal of the entire materials, as placed before this Court and after hearing the learned advocates for the contending parties, this Court finds sufficient justification in the submission of the learned advocate for the respondent/State inasmuch as section 2(1)(b) of the Act of 1962 clearly mandates that other than in Calcutta, an SDO also comes under the purview of definition of 'Collector'.
12. In view of such, this Court finds no justification to interfere with the memo dated 16.11.2025, as issued by the respondent no. 3 authority, whereby and whereunder the said respondent no. 3 authority declined to accept the appeal, as preferred by the instant writ petitioners.
13. However, considering the fact that the present writ petitioners have approached a wrong forum for filing appeal, may be under a wrong advice, this Court, while disposing the instant writ petition, grants liberty to the writ petitioners to prefer an appeal impugning the orders dated 02.07.2025 and 10.12.2025 before the appropriate authority under section

7 of the Act of 1962 and in the event such appeal/appeals is/are preferred within 15 working days from today, the said appellate authority shall not consider such appeal/appeals as time-barred.

14. It is further directed that in the event such appeal/appeals is/are preferred impugning the orders dated 02.07.2025 and 10.12.2025 within the stipulated period, as indicated in the foregoing paragraphs, the appropriate authority shall dispose of those appeal/appeals positively within 30 working days from the date of presentation of the appeal/appeals after giving due chance of hearing to the appellant and the respondents.
15. In case such appeal/appeals is/are preferred within the stipulated period, the respondent no. 2 authority shall not proceed with the Case No. 165-MR/25 till disposal of the said appeal/appeals or till further order or orders, as would be passed by the appellate authority, whichever is earlier.
16. It is made clear that while disposing the instant writ petition, this Court has not gone into the merits of the appeal, as would be preferred against the orders dated 02.07.2025 and 10.12.2025 by the present writ petitioners

and thus, all points are kept open for adjudication by the appellate authority within the meaning of section 7 of the Act of 1962.

17. With the aforementioned observations, WPA 16206 of 2026 is disposed of.

18. Liberty is given to the learned advocate on record of the writ petitioners to communicate server copy of this order to the respondent no. 2 authority forthwith and the respondent no. 2 authority is directed to act on the server copy of this order.

19. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(PARTHA SARATHI SEN, J.)