

Item No. 130
01.7.2026
Court. No. 12
Cp

FMA 218 of 2026
With
CAN 1 of 2026

Sukdev Manna
Vs.
The State of West Bengal & Ors.

Mr. Sukumar Ghosh
Mr. Sandip Ghosh
Mr. Partha Sarkar

.....for the appellant.

Ms. Susmita Saha Dutta, Ld. AGP
Ms. Tanusree Ghosh
Ms. Madhurima Basu

.....for the State.

1. Affidavit of service is taken on record. Despite service, none appears on behalf of the respondents other than the State.
2. The appellant/ petitioner is aggrieved by an order dated January 8, 2026, passed in WPA 20274 of 2024. The petitioner had alleged unauthorized construction by the respondent no. 7. Prayer was made before the writ court, for a direction upon the panchayat authorities to act and proceed in accordance with law. It was alleged that the construction was without any permission and had been raised without leaving the mandatory open space.
3. The learned single Judge held that, the construction had been completed prior to the filing of the writ petition. Thus, a belated complaint with regard to an unauthorized construction could not be accepted.

4. The reasoning given by the learned court was that, if a civil suit had been filed on the self-same issue, injunction would have been refused.
5. An allegation of unauthorized construction without any sanction and without leaving mandatory open space as per the building rules had been made before the gram panchayat. No steps were taken. Hence, the writ petition was filed. Thus, the analogy drawn by the learned Single Judge while dismissing the writ petition, with the scope for grant of an order of injunction, is misplaced. Secondly, a construction within a panchayat area, can be raised only upon seeking permission from the gram panchayat. If there is violation of law, the gram panchayat is statutorily empowered and duty bound to take steps.
6. Accordingly, the order impugned is set aside.
7. The appellant will file a comprehensive representation before the concerned gram panchayat. A copy of the said representation shall be served upon the respondent no. 7. Thereafter, the said representation shall be disposed of by the competent authority of the concerned gram panchayat, by adhering to the following procedure:-
 - a. An inspection shall be held in the presence of the appellant and the respondent no. 7. Advance notice of such inspection shall be served upon the appellant and the respondent no. 7 and on all other interested parties. If the parties are not available

to such accept notice, the same shall be affixed at a conspicuous place at the premises.

- b. A report of such inspection shall be prepared along with the sketch map, indicating the extent and nature of unauthorized construction, if detected.
- c. Such report shall be handed over to the parties.
- d. A hearing shall be given to the appellant and the respondent no. 7. The parties must also be allowed to furnish their written objection/version to the said report and adduce oral and documentary evidence in support of their contentions before the competent authority. All points raised by either party, will be decided.
- e. A reasoned order shall be passed and communicated to the parties. On the basis of what transpires at the hearing and during the inspection, the proceedings shall be reached to its logical conclusion in terms of Section 23(5) of the West Bengal Panchayat Act
- f. The entire exercise shall be completed within a period of four months from the date of receipt of the representation.
- g. The question of title, possession and boundary etc. shall not be decided by the panchayat authorities. The questions to be decided by the panchayat authorities, will be, whether the alleged construction has been raised without any permission and/or in violation of the building

rules and /or in deviation from the sanctioned plan.

8. A server copy of this order be served upon the concerned gram panchayat for necessary compliance of this order.
9. Accordingly, the appeal and the connected application are disposed of. We have not gone into the merits of the claim and counter claim of the parties.
10. However, there will be no order as to costs.
11. All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)

(Smita Das De, J.)