

09.04.2026
Item No.11
Court No.12
Cp/Sandip

FMA 215 of 2026
CAN 1 of 2026

Lakshmi Kanta Laha
Vs.
The State of West Bengal & Ors.

Mr. Sounak Bhattacharya,
Mr. Sounak Mandal
Mr. Abhirup Halder
Mr. Anirban Saha Ray

...for the Appellant.

Mr. Sanjib Dawn

...for the Respondent Nos.11 & 12.

The appellant is aggrieved by a construction raised by the respondent nos. 11 & 12, over Plot No. 845 of Mouza-Khantora, within the jurisdiction of Domjur Police Station. The decision of the Sub-Divisional Officer was challenged by filing a writ. The writ petition was dismissed, upon upholding the decision of the Sub-Divisional Officer. The relevant portion of the order of the Sub-Divisional Officer is quoted below:-

“From the documents so produced and verified and as per field enquiry submitted by BL&LRO, Domjur, it reveals that-

1. The plot in question measuring an area of 0.02 acre is in possession of Subhomay Laha, the son of Sushil Kr. Laha, the Private Respondents. He is the recorded raiyat of the plot.
2. A one storied pucca building has been constructed on the plot where Subhomoy Laha has been residing since 2019.

3. LR Plot No. 845 in 'Udbastu' and 'Bastu' are same in nature and no separate conversion is required.
4. Subhomay Laha submitted sanction plan approved by Howrah Zilla Parishad in this regard.

From the above facts and findings it appears that no such illegal/unauthorised construction on plot no. 845(LR) has been made.”

The first contention of Mr. Bhattacharya, learned advocate for the appellant, is that the learned Judge failed to take into consideration that the land had been classified as 'udbastu' and not as 'bastu'. The zilla parishad could not have granted the permission to construct on the said plot, without conversion. To buttress his submissions, reliance has been placed on the sanction plan and the endorsement behind the said plan which clearly mentioned that the plan would be operative only when the land was converted to 'bastu'. Further reliance has been placed on a communication of the secretary of the zilla parishad which, inter alia, stated that sanction for construction on 'udbastu' land could not be permitted and only upon conversion to 'bastu', the same could be given.

However, we find from the order of the sub-divisional officer that 'bastu' and 'udbastu' were taken to be of similar classification and thus, the construction of the respondent nos. 11 and 12 were found to be in order. This stand of the sub-divisional officer is contrary to the opinion of the zilla parishad which was expressed at the time of sanction of the plan and also during other communications which were made. One such letter which has been annexed by the appellant has been issued by the

SPIO and Secretary, Howrah Zilla Parishad dated March 6, 2023. We also find from other communications made by the zilla parishad that there were no records with regard to grant of sanction in respect of the construction on the plot in question. These factual discrepancies have given rise to various confusions. Whether the Sub-Divisional Officer had actually considered the matter in its correct perspective is in doubt. The learned Single Judge did not consider these aspects and mechanically rejected the writ petition.

Under such circumstances, the order of the writ Court, that is, the order impugned before us and the order of the Sub-Divisional Officer are set aside.

The matter is remanded for hearing by the District Magistrate, Howrah for a fresh decision on all the issues and allegations raised by the appellant.

The District Magistrate shall hear the matter himself and pass necessary orders in this regard. All points are left open, to be urged by the respective parties before the District Magistrate.

Let the entire exercise be completed within 31st July, 2026 and if any unauthorized construction is found, which cannot be supported by the law, steps shall be taken in accordance with the provisions of the West Bengal Panchayat Act, 1973.

Before passing any order, an inspection of the premises shall be conducted in presence of the parties. A report of inspection shall be handed over to the parties. All

parties shall be allowed a personal hearing and also be allowed to produce documents in support of their respective cases. Thereafter, the matter shall be disposed of.

Accordingly, the appeal and the connected application are disposed of.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)