

03.02.2026  
SI No.4  
Ct. No.15  
S.A.

**WPA 27738 of 2025**

**Mintu Kumar Pal & Ors.**

**-vs-**

**State of West Bengal & Ors.**

Mr. Ashok Kumar Banerjee, Sr. Adv.  
Mr. Tapojit Dey  
Mr. Samaruddha Das  
Ms. Ishita Ghosh  
Mr. Suraj Kumar Shaw  
Ms. Susmita Banerjee

...for the petitioners

Mr. Debjit Mukherjee  
Ms. Priyanka Jana

...for the State

Ms. Shabana Hasin  
Ms. Samima Akter

...for respondent no.2

This Court is not inclined to implement the order dated November 18, 2025, passed by the Sub-Divisional Officer directing demolition of the shop room in question, prior to final adjudication of the writ petition upon completion of the exchange of affidavits.

Some factual aspects require consideration by this Court before arriving at a final decision.

The petitioners are brothers. They claim to have been in possession of the shop room situated on Plot No. 584, J.L. No. 30, Mouza-Deganga, District-North 24 Parganas, for the last 50 years, since the time of their father. This Court is not, however, prima facie

satisfied as to their title in respect of the said shop room.

Respondent no. 9, on the other hand, claims right and title over a property adjacent to the petitioners' shop room by virtue of a deed executed in the year 2020.

Respondent no. 9, soon after execution of the deed, instituted Title Suit No. 299 of 2020 before the Court of the Civil Judge (Junior Division), Barasat, alleging that the writ petitioners had encroached upon a portion of his property by raising construction. The said title suit was subsequently withdrawn by respondent no. 9 with the liberty to file afresh.

Thereafter, respondent no. 9 filed WPA 9449 of 2020 alleging unauthorised construction encroaching upon his land at the instance of the petitioners. By an order dated August 6, 2021, a Co-ordinate Bench directed the Panchayat Pradhan to consider the grievance and pass a reasoned order.

Pursuant thereto, the Pradhan conducted a hearing of the parties and concluded that the shop room had been raised on Government land without obtaining permission from the Panchayat Authority. The matter was thereafter referred to the Sub-Divisional Officer, who, by an order dated November 18, 2025, affirmed the order of the Pradhan.

The writ petitioners have challenged the said order of the Sub-Divisional Officer dated November 18, 2025.

The learned Advocate appearing for the petitioners submits that the petitioners have been in possession of the shop room for the last 50 years and that the present proceedings have been initiated at the behest of respondent no. 9 as an indirect attempt to dispossess the petitioners from the shop room in question.

The learned Advocate appearing for the State opposes the prayer of the petitioners. In view of prayer (c) of the writ petition, it is submitted that the writ petition is not maintainable, as the said prayer is beyond the scope of this writ Court. It is also contended that, since it is an admitted position that the shop room has been raised on vested land, the petitioners cannot assert any right of possession over the same.

The learned Advocate appearing for respondent no. 9, on the other hand, submits that the petitioners have raised construction without any sanctioned plan. It is argued that long-standing possession, by itself, cannot legalise an otherwise illegal occupation or construction. In support of his submissions, reliance has been placed on a judgment of the Supreme Court reported at **2024 Supreme (SC) 1199 (Rajendra**

***Kumar Barjatya v. U.P. Avas Evam Vikas Parishad).***

Upon hearing the parties, this Court is of the prima facie view that although the Sub-Divisional Officer, Barasat, passed the demolition order on the ground that the construction was raised on Government land and without permission from the Panchayat Authority, he has acted in violation of the principles of natural justice by relying upon a survey report prepared by the Assistant Director and the Block Land and Land Development Officer, as well as other documents, without affording the petitioners an opportunity to rebut the same.

No material has been placed before this Court by the State to demonstrate that such documents were supplied to the petitioners prior to the passing of the impugned order.

In the considered view of this Court, the primary issue before the Sub-Divisional Officer ought to have been whether the construction of the shop room required permission from the Panchayat Authority. In arriving at such a determination, a specific finding regarding the age of the construction was necessary, particularly when the petitioners have consistently asserted that the structure was erected and has been in their possession for the last 50 years.

It is needless to observe that a construction raised approximately 50 years ago does not require permission from the Panchayat Authority under the West Bengal Panchayat Act, 1973. There appears to have been no endeavour on the part of the Sub-Divisional Officer to ascertain this aspect of the matter.

In view of the aforesaid, the operation of the order dated November 18, 2025, passed by the Sub-Divisional Officer shall remain stayed till disposal of the writ petition.

Let the affidavit-in-opposition be filed by the respondents within a period of four weeks from date, and reply thereto, if any, be filed by the petitioners within two weeks thereafter.

List the matter after six weeks under the heading "Hearing".

**(Kausik Chanda, J.)**