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IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CONSTITUTIONAL WRIT JURISDICTION

WPA 1590 of 2025

Sirajul Miya & Ors.
Versus
The State of West Bengal & Ors.

Mr. Ankur Barman
Ms. Ankita Barman
... For the petitioners.

Mr. Pretom Das
Mr. Pradip Sarkar
... For the State

Mr. Subhasish Misra
Mr. Satyajit Paul
... For the respondent nos. 4 to 10

1. Affidavit of service filed in Court is taken on record.
2. The petitioners claim to be the lawful and recorded owner in respect of the certain plots of land situate at Mouza-Atpukhari, JL No. 127, Khaitan No. 8, 1692, 1693, 1694, 1695, 1696 and 1697 plot no. 160.
3. According to the petitioners, the private respondent nos. 4 to 10, have not only encroached upon the aforesaid land but have also constructed 'Pukka' Commercial Building in the form of brick built shop. The aforesaid construction, according to the petitioners, is illegal, without the sanction of the Panchayat Pradhan and is in violation of the provisions of

Section 23 of the West Bengal Panchayat Act, 1973 (hereinafter referred to as the “said Act”). Although, a representation in this regard was made to the Block Development Officer, Mathabhanga – II, the same did not yield any result.

4. Mr. Misra, learned advocate representing the respondent nos. 4 to 10 would submit that the construction that has been carried out by the aforesaid respondents does not cover the land owned by the petitioners.
5. Heard the learned advocates appearing for the respective parties including the State. Having regard to the claim made by the petitioners and considering the scope of Section 23 of the said Act which specifically creates an embargo in construction of any new structure or new building or from making any addition to any structure or building having plinth area of not more than 150 square metres and height not more than 6.5 metres, in any area within the jurisdiction of a Gram Panchayat except with the previous permission in writing from the Gram Panchayat, in my view it would be prudent at this stage to dispose of the writ petition by directing the concerned Pradhan, being the respondent

no.3, to decide on the petitioners' representation as expeditiously as possible, preferably within a period of two weeks from the date of communication of this order by affording an opportunity of hearing to the petitioners and the respondent nos. 4 to 10, by passing a reasoned order. In the event, the respondent no.3 is of the view that the aforesaid construction has come up without the permission of the Gram Panchayat, appropriate steps should be taken in accordance with law by referring the matter to the Sub-Divisional Officer (SDO). If any reference is made by the Pradhan, appropriate steps shall be taken by the SDO in accordance with law.

6. Since, no affidavit-in-opposition has been called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.
7. With the above observation and directions the writ petition is disposed of.
8. Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance with the requisite formalities.

(Raja Basu Chowdhury, J.)