

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Joymalya Bagchi

And

The Hon'ble Justice Gaurang Kanth

***MAT 1196 of 2024
CAN 1 of 2024***

**Ananta Kumar Mondal & Anr.
Vs.
State of West Bengal & Ors.**

For the Appellants	:	Mr. Tarun Kr. Das Mr. Dilip Kr. Shyamal
For respondent no. 7	:	Mr. Anandamayi Ghosh
For the State	:	Mr. Manas Kundu Md. Mansoor Alam
Heard on	:	20.8.2024 & 10.09.2024
Judgment on	:	10.09.2024

Joymalya Bagchi, J.:-

1. Appellants have assailed order dated 25.1.2023 whereby his prayer for erection on the land in question was turned down by the Hon'ble Single Judge.

2. Factual matrix giving rise to the appeal is as follows :

The appellants state that they had purchased 12 decimals of *Bastu* land on Dag no. 362 at Mouza Jamtala from the erstwhile owner. Thereafter, in 1997 they made an application for erection of a house

thereon before the Panchayat authorities. The Panchayat authorities failed or neglected to act upon the representation and the petitioner approached this court in WP 16912(W) of 1998 and the Hon'ble Single Judge as his lordship then was directed the Panchayat concerned to consider the representation of the petitioner within a timeframe failing which petitioner shall have a right to construct with reference to Rule 23 (1) of the West Bengal Panchayat (Gram Panchayat) Administration Rules, 1981.

3. Appellants did not act in terms of the aforesaid order. After two decades they made another application for grant of sanction before the Panchayat authorities and it is contended the sanction to erect the building was granted which was to be undertaken within one year. That also was not done. In 2022 appellants approached this Court praying for direction upon the Panchayat authorities to permit him to construct on the land. Hon'ble Single Judge came to a finding that the land on which the construction was proposed, was not recorded as '*Bastu*' and, accordingly, dismissed the writ petition.
4. Learned counsel for the appellants contends the earlier order of this court in WPA 7454 of 2022 and the grant of sanction by Panchayat authorities in 2017 show he had a right to construct on the land. Accordingly, Hon'ble Single Judge ought not to have recorded that *bargadarship* on the land was terminated and that he had no right to construct on the land till it was converted to '*Bastu*'.

5. On the other hand, learned counsel for the respondent authorities including the private respondent contends the appellant's land is described as '*Sali*' i.e. agricultural land and respondent no. 7 is a *bargadar* on the land.
6. In rebuttal, learned counsel refers to the record of rights wherein Dag no. 362 has been described as '*Bastu/Sali*'.
7. We have considered the rival submissions at the Bar. Appellants had purchased the land in question in 1993. The schedule appended to the sale deed describes the conveyed land in DAG no. 362 as '*Sali*' in the sale deed.
8. In such view of the matter there is no controversy that part of the land in Dag no. 362 conveyed to the appellants constitute '*Sali*' and not '*Bastu*' land.
9. Under such circumstances it was not within the jurisdiction of the Panchayat authorities to grant permission to erect the building on *Sali* land unless the same was converted to *Bastu*.
10. Nothing is placed on record to show the character of the land has been converted by the appropriate authorities as per law.
11. In view of the unimpeachable materials on record that the land conveyed to the appellants as per sale deed is '*Sali*' earlier permission which had otherwise expired by efflux of time cannot confer a valid right to commence construction.
12. Appeal is accordingly dismissed.
13. There shall be no order as to costs.

14. Urgent Photostat certified copy of judgment, order if applied for be given to the parties on compliance of all formalities.

I agree.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)