

28.10.2025
Item No. 174
Ct. No. 42
AN

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

**WPA 322 of 2024
Uttam Kumar Biswas & anr.
vs.
State of West Bengal & ors.**

Mr. Kaustav Banerjee
Ms. Ria Kundu
Ms. Debjanee Chakraborty
... for the petitioners

Mr. Lalit Mohan Mahata, ld. AGP
Mr. Jagabandhu Roy
... for the State

Mr. Partha Sarathi Mondal
... for respondent nos. 7 & 8

1. Affidavit-in-reply and exception filed on behalf of the petitioners are taken on record.
2. On the prayer of the learned advocate appearing for the petitioner, leave is granted to implead the concerned Sub-Divisional Officer, Diamond Harbour, South 24 Parganas as added respondent no. 9.
3. This writ petition has been filed seeking for direction upon respondent no. 5, the Pradhan, Raidighi Gram Panchayet to take necessary steps for proper inspection through the Civil Engineer and demolish the unauthorized, illegal construction raised by respondent nos. 7 and 8.
4. The petitioners contend that they have purchased two plots of land comprised within L.R. Dag No. 3486 and

3487, J.L. No. 110, L.R. Khatian No. 4168 and 5522 under Mouza Raidighi in the year 1993 and 2004 and being the owners are in possession of the said plots of land. Respondent nos. 7 and 8 without leaving requisite side space has made construction of a Nursing Home. The petitioners made representation before the local Gram Panchayet for redressal of their grievances on 19th May, 2022. Since no steps were taken, the petitioners filed a writ petition being WPA 11319 of 2022. The said writ petition was disposed of on 26th July, 2022 with the following directions:

“The writ petition is accordingly disposed of by directing the respondent nos. 5 and 6 herein to consider and dispose of the representation made by the petitioners, strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties, including the petitioners, at the earliest, but positively within a period of three months from the date of communication of a copy of this order. The said respondent shall pass a reasoned order and communicate the same to all the necessary parties, including the petitioners, immediately thereafter.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorised construction, in accordance with law.”

5. Pursuant thereto since no order was passed, the petitioners filed a contempt application before the Hon'ble Court being CPAN 1430 of 2022. The contempt application was disposed of on 14th December, 2023 granting liberty to the petitioners to apply before the appropriate forum for necessary reliefs since disputed question of facts were involved. Hence this writ petition against the inaction of

respondent nos. 5 and 6 against the alleged unauthorised construction.

6. The State respondents in the present writ petition has filed its report through the B.D.O., Mathurapur-II, Development Block dated 6th May, 2024. In the report of the B.D.O., Mathurapur-II, Development Block, the details of the constructions including the measurements have been specified. The Report mentions as follows:

*“As per permission given by the Pradhan,
Raidighi Gram Panchayet:*

*South: 16’8”, North: 16’8” & East-West:
162’11”*

*Actual measurement at the time of spot
inspection:*

South: 18’, North: 20’ & East-West” 179’.”

7. Mr. Lalit Mohan Mahata, learned Additional Government Pleader representing the State submits that as per the report of the B.D.O., Mathurapur-II, Development Block, there is deviation from the existing sanction plan.
8. Mr. Kaustav Banerjee, learned advocate appearing for the petitioner submits that the plan has been sanctioned in favour of respondent nos. 7 and 8 without there being conversion of the nature of the entire land from ‘Sali’ to ‘Bastu’ in utter violation of Rule 26 of the West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004.
9. It is not in dispute that the plan has been sanctioned by the local Gram Panchayet in favour of respondent nos. 7 and 8. Be that as it may, annexure 15 to the

affidavit-in-opposition shows that only 7 decimals of land recorded in the name of one Shib Prasad Patra (respondent no.8) has been converted from “*shali*” to “*bastu*”, however, there are no such documents showing conversion of land from “*shali*” to “*bastu*” measuring 5 decimals of land recorded in the name of Shib Shankar Patra (respondent no.7). The State in the present writ petition, through the B.D.O., Mathurapur-II, Development Block has filed report which shows deviation in construction from the sanctioned plan. In such circumstances, the issues raised by the writ petitioners needs to be dealt with by the authority concerned.

10. Accordingly, this Court is of the view that the matter be referred to the higher authority viz. the Sub-Divisional Officer, Diamond Harbour, South 24 Parganas, added respondent no. 9 who shall consider the issue of unauthorised construction by respondents by adopting the following procedure:-

- (i) Cause an inspection on the property-in-question upon notice to the petitioner as well as private respondents. A report of such inspection along with sketch map be prepared, which shall be handed over to the parties.
- (ii) Thereafter the parties shall be heard upon notice and a reasoned order be passed which shall be communicated to the parties within a

week of passing of such orders. Parties are granted liberty to produce all relevant records and documents before the Sub-Divisional Officer at the time of hearing.

(iii) On the basis of materials transpiring during inspection and hearing, the proceedings shall be taken to its logical conclusion in terms of provisions of Section 23 of West Bengal Panchayat Act.

(iv) The entire exercise shall be completed within a period of three months from date of communication of this order.

11. It is left open to the petitioners to raise the issue of legality of the plan sanctioned in favour of respondent nos. 7 and 8 before the concerned Sub-Divisional Officer.
12. With the aforesaid directions, the writ petition being no. **WPA 322 of 2024** stands disposed of.
13. Consequently, all connected applications, if any, also stand disposed of.
14. Interim orders, if any, stand vacated.
15. There will be no order as to costs.
16. Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Bivas Pattanayak, J.)