

27.02.2025
Item No.11
Ct. No.26
CHC
(disposed of)

F.M.A. 218 of 2025
IA NO: CAN/1/2025

The Prodhan, Anukhal Gram Panchayat & Anr.
Vs.
Ansar Ali Sk. & Ors.

Mr. Atanu Biswas, Advocate
Mr. Mrinal Saha, Advocate
...for the appellants

Md. H. A. Rashid, Advocate
Md. M. Sk., Advocate
...for the respondent no.1

Mr. Naba Kumar Das, Advocate
Mr. Subhabrata Das, Advocate
...for the State

Mr. Jyoti Prakash Chatterjee, Advocate
....for the respondent nos.8 & 9

Mr. Prasanta Kumar Banerjee, Advocate
Ms. Indrani Nandi, Advocate
Mr. Purnankar Biswas, Advocate
...for the respondent nos.11, 12, & 13

1. Appeal is directed against the order dated December 20, 2024 passed in WPA No.25621 of 2023.
2. By the impugned order, learned Single Judge set aside the order dated September 4, 2023 directing demolition of the construction. Learned Single Judge directed the District Magistrate to decide the issue of unauthorized construction.

3. Appeal is at the behest of Prodhan of the Gram Panchayat.
4. Learned advocate appearing for the appellants submits that, although the Prodhan of Gram Panchayat took assistance in rendering decision impugned in the writ petition dated September 4, 2023, the Prodhan was conscious of the contents of the order and signed the order voluntarily after understanding its meaning in its entirety. He submits that, the order dated September 4, 2023 was not required to be set aside on the ground as noted in the impugned order of the learned Single Judge.
5. State and the private respondents are represented.
6. There is an issue of unauthorized construction at the property concerned. A previous writ petition, being WPA 8236 of 2022 resulted in an order dated January 19, 2023 requiring Prodhan of the Gram Panchayat to consider the issue of unauthorized construction. Prodhan of the Gram Panchayat did so and passed an order dated September 4, 2023 which was set aside by the impugned order.
7. We perused the order dated September 4, 2023 of the Prodhan. We also perused the impugned order dated December 20, 2024.
8. Learned Single Judge is of the view that the author of the order dated September 4, 2023 took external

assistance in drafting and arriving at a finding recorded in such order.

9. It is admitted on behalf of the appellants that, external assistance was obtained for the purpose of writing the order dated September 4, 2023.
10. Consequently, such order cannot survive.
11. In such circumstances, we find no infirmity in the order of the learned Single Judge and set aside the order dated September 4, 2023. Issue of unauthorized construction remains undecided. Proadhan acted in a manner which according to us does not permit us to requires the same Proadhan to decide the issue.
12. In such circumstances, we direct the jurisdictional Sub Divisional Officer to decide the issue of unauthorized construction at the locale in accordance with law.
13. Jurisdictional Sub Divisional Officer will afford a reasonable opportunity of hearing to the private parties before us. He is at liberty to hear such other parties and consult such other documents that he deems appropriate. He will pass a reasoned order which he will communicate to the parties forthwith thereafter. It is expected that the entire exercise is completed within 8 weeks from date.
14. We clarify that, we did not enter into the issue of unauthorized construction. Such issue is left open to

be decided by the jurisdictional Sub Divisional Officer, in accordance with law.

15. **FMA 218 of 2025** along with connected application are disposed of without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)