

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

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

M.A.T. 136 of 2025

With

CAN 1 of 2025

Sri Pradip Roy

vs.

State of West Bengal & Ors.

For the Appellant

**: Mr. Pankaj Halder,
Mr. Bidish Ghosh**

For the Private respondent

**: Mr. Debasis Sur
Mr. Santanu Chakraborty**

For the State

**: Mr. Tapas Kumar Adhikari
Mr. Somraj Dhar**

Heard and Judgment on

: February 14, 2025

DEBANGSU BASAK, J.:-

1. Appeal is at the behest of the of the writ petitioners and directed against a judgment and order dated December 24, 2024 passed in W.P.A. 21870 of 2017.
2. State and the private respondents are represented.

3. Appellant approached the Writ Court alleging unauthorized construction in respect of property situated at Khatian No. 111/1 and 111/2, J.L. No. 4, Dag No. 701 at village – Kuliara, Mouza – Kuliara.
4. Learned Single Judge dismissed the writ petition on the ground that there is a civil suit pending between the private parties.
5. There is a civil suit pending between the private parties being Title Suit No. 12 of 2013. That suit does not involve the issue as to whether there exists any unauthorized construction in the two plots or not.
6. Therefore, pendency of the civil suit is not a relevant consideration, with deepest respect as to the issue of unauthorized construction.
7. Since there is an allegation of unauthorized construction on the plots involved in the two khatians noted above, the Panchayat will invoke Sections 23 of the West Bengal Panchayat Act, 1973, and enquire as to whether there exists any unauthorized construction in the two khatians noted above or not. No doubt, the Gram Panchayat will undertake such exercise upon notice to both the private parties. Gram Panchayat is at liberty to hear such other parties and consult such documents as it deems necessary. Gram Panchayat will pass a reasoned order and communicate the same to the parties it heard forthwith thereafter. It is expected that, the entire exercise is

completed within 8 weeks from the date of communication of this order to the Gram Panchayat.

8. We clarify that we did not enter into the rival contentions as to the validity and legality of the construction existing at the locale. All points with regard thereto are kept open. Gram Panchayat will decide such issue without being influenced by any of the observations made by the learned Single Judge or by us in this order.
9. In the event the Gram Panchayat finds any unauthorized construction it would send such decision to the Jurisdictional Sub-Divisional Officer to proceed, in accordance with law, to remove the unauthorized construction.
10. Judgment and order dated December 24, 2024 passed in W.P.A. 21870 of 2017 is set aside.
11. **M.A.T. 136 of 2025** is **allowed** without any order as to costs.
12. In view of the disposal of the appeal, the connected application being CAN 1 of 2025 is disposed of.

(Debangsu Basak, J.)

13. I agree.

(Md. Shabbar Rashidi, J.)

S.D.

