

07.02.2025
Sl. No.4
srm

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

W.P.A. No. 2909 of 2025

Jhunu Rani Mondal & Anr.

Versus

The State of West Bengal & Ors.

Mr. Krishnendu Bhattacharya,
Mr. Suman Das,
Mr. Anirban Kumar Banerjee,
Mr. Priyonkor Ganguly,
Mr. Rounak Majumder

...for the Petitioners.

Mr. Molay Krishna De,
Mr. Krishna Deo Das

...for the State-respondents.

Affidavit of service filed on behalf of the petitioner
is taken on record.

This writ petition has been filed challenging the
order dated 27th April, 2023 passed by Pradhan,
Haipur Gram Panchayat, Contai, Purba Medinipur, the
order dated 17th January, 2024 passed by the Sub-
Divisional Officer, Contai and direction contained in
letter dated 28th January, 2025 of Pradhan, Haipur
Gram Panchayat for demolition of structure erected by
the petitioners.

The brief fact of the petitioners' case is that the
petitioners are the co-sharers in respect of the property
comprised within Dag Nos.62 and 63 of Mouza-
Kanchlageria, Sabek Khatian No.147, Haal Khatian

No.798, J.L. No.122 measuring more or less 2 decimals of land of the nature of 'Jal' by dint of deed of conveyance dated 3rd March, 2021. The private respondent No.9, who is also a co-sharer in the property, is disturbing the peaceful possession of the petitioners. An application under Section 145 of the Code of Criminal Procedure (*in short Cr.P.C.*) was filed by the respondent No.9 alleging of encroachment by the petitioners. The names of the petitioners have been recorded in the record of rights in respect of the land-in-question of the nature 'Jal'. The petitioners have already applied for conversion of the nature of land on 16.9.2021, however, the same is still pending before the concerned authority. The respondent No.9 filed a writ petition before this Court being WPA 20018 of 2021 and a direction was issued for holding inspection of the property by the Haipur Gram Panchayat. Although there was no illegality in undertaking construction work and the structure standing on the land in question is a temporary structure, order has been passed for demolition, which is contrary to the law. Hence this writ petition.

Mr. Krishnendu Bhattacharya, learned Advocate appearing for the petitioners submits that the petitioners have already taken steps for conversion of the nature of the land from 'Jal' to 'Bastu'. The construction made by the petitioners is a brick-built

structure with asbestos-shed roof which is temporary one and not a permanent structure. The order of the Sub-Divisional Officer has been passed holding that the structure is a *pucca* dwelling house whereas the Pradhan of Haipur Gram Panchayat has stated in his reasoned order that the structure is a brick-built with asbestos-shed roof. As such, the order passed by the Sub-Divisional Officer has proceeded on a wrong premise and beyond the records. He seeks for an interim order of stay of order of demolition passed by respondent no.7, Pradhan of Haipur Gram Panchayat dated 28th January, 2025.

On the contrary, Mr. Krishna Deo Das, learned Advocate appearing for the State-respondents files report, which is taken on record. He submits that such order has been passed pursuant to the order passed in the writ petition by this Court on 24th March, 2022, hence the order impugned should not be interfered. He seeks for dismissal of the writ petition.

In previous round of litigation, this Court in WPA 20018 of 2021 passed the following directions:

“Under such circumstances, this writ petition is disposed of with a direction upon the competent authority of the Haipur Gram Panchayat to act and proceed in accordance with law by adopting the following procedure:

- a) An inspection of the premises shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent nos.10 and 11, within three weeks. Advance notice of the inspection shall be served upon the petitioner and the respondents No.10 and 11. If the parties are not available to accept notice, the authorities shall affix the notices of hearing and inspection at conspicuous places in their respective premises.*

- b) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and was continuing, the authorities may take such interim measures by stopping such construction.*
- c) A report of such inspection shall be prepared along with the sketch map, indicating the extent and nature of unauthorized construction, if any.*
- d) Such report shall be handed over to the parties.*
- e) A hearing shall be given to the petitioner and the respondents No.10 and 11. The parties must also be allowed to furnish their written objection/version to the said report and adduce oral and documentary evidence in support of their contentions, before the competent authority. All points raised by either party, shall be decided. The question of title or boundary dispute, shall not be decided.*
- f) A reasoned order shall be passed and communicated to the parties. On the basis of what transpires at the hearing and during inspection, the proceedings shall be reached to its logical conclusion in terms of the Section 23 of the West Bengal Panchayat Act. If any unauthorised construction is found to be going on, interim measures shall be adopted in accordance with law, during pendency of the hearing.”*

Upon going through the reasoned order dated 27th April, 2023 passed by the Pradhan of Haipur Gram Panchayat pursuant to the order passed by this Court on 24th March, 2022 in WPA 20018 of 2021, it is found that an inspection was held in presence of the parties and the said order records that the construction is illegal and unauthorised. Thereafter the Sub-Divisional Officer has also noted such fact and passed order in the proceedings on 17th January, 2024 directing the petitioners herein to demolish the building which is being erected in contravention of Section 23(1) of the West Bengal Panchayat Act, 1973 within a period of 15 days from date of receipt of the order and restore the plots to its original status and if the petitioners fail to demolish the structure within the

stipulated period, the respondent no.7, Pradhan of Haipur Gram Panchayat was directed to demolish the structure. It is pertinent to note the Sub-Divisional Officer has passed such direction pursuant to order dated 4th May, 2023 passed in WPCRC No. 35 of 2023 in WPA 20018 of 2021. Pursuant to the order passed by the Sub-Divisional Officer, the Pradhan of Haipur Gram Panchayat vide its letter dated 28th January, 2025 has fixed for demolition of the illegal structure. While disposing of the writ petition being WPA 20018 of 2021 on 24th March, 2022, this Court issued direction at clause (f) that a reasoned order shall be passed and communicated to the parties. On the basis of what transpires at the hearing and during inspection, the proceedings shall be reached to its logical conclusion in terms of Section 23 of the West Bengal Panchayat Act. Thus, the orders have been passed in compliance to order of this Court. Such being the position, the steps taken by the authorities do not call for interference.

In light of the above discussion, the writ petition falls short of merit. Accordingly, the writ petition being **WPA 2909 of 2025** stands dismissed.

Interim order, if any, stands vacated.

All connected applications, if any, stand disposed of.

There shall be no order as to costs.

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

(Bivas Pattanayak, J.)