

04.04.2025
srm
Sl. No.70
Ct No.39

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

WPA 2975 of 2025

(Rabindra Nath Modak Vs. The State of West
Bengal & Ors.)

**Mr. Pankaj Halder
Mr. Neelabha Bera
Mr. Sanatan Panja
Mr. Tapas Manna**

.... For the petitioner

**Mr. Suddhadev Adak,
Mr. Subhajit Chowdhury**

.... For the State

**Mr. Sounak Bhattacharya
Mr. Sounak Mondal**

.... For the respondent no. 9

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

This writ petition has been filed seeking direction upon the respondent authorities to take appropriate steps as per the complaint of the petitioner dated 29th January, 2025.

The petitioner contends that the petitioner and private respondents are co-owners in respect of plot LR Plot No. 644, J. L. 40, Mouza – Mallickpur, District – South 24-Parganas (South). The private respondent no.9 has made illegal construction over the property-in-question without obtaining sanctioned plan and also without converting the classification of the land from ‘pukur par’ to ‘bastu’ which is violative of the existing provisions of the Panchayat Act as well as rules under

West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004. The private respondents are residing at Plot No. 649, J. L. 40, Mouza – Mallickpur and considering the said status funds under ‘AWAS PLUS’ is sanctioned. However, with the said funds, the private respondents are making construction over the property-in-question. Representations were made on 29th January, 2025 before the concerned authority for redressal of such grievance. However, no steps have been taken. Hence, this writ petition.

Mr. Pankaj Halder, learned advocate for the petitioner submits that the land in question has been recorded in the LR Record of Rights as ‘*pukur par*’. As per Rule 26 of the West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004, the gram panchayat cannot accord permission for erection of building in respect of a land which is not ‘*bastu*’ till the applicant produces an order allowing classification of land changed by a competent authority. As per records, no such conversion of the classification of land has been made till date. The Executive Assistant, Dhanurhat Gram Panchayat has also informed vide letter dated 20th August, 2024 that the gram panchayat has not issued any permission for construction. He seeks for direction upon the respondent no.8, Pradhan, Dhanurhat Gram

Panchayat to consider and dispose of the representation of the petitioner dated 29th January, 2025.

Learned advocate for the State respondents also submits in the similar fashion.

Mr. Sounak Bhattacharya, learned advocate representing the private respondent no.9 submits that the private respondents and petitioner are co-sharers and the construction complained of is an old one and thus no construction has been undertaken by respondent no.9. Therefore, there is no violation of the existing rules by the private respondents. He seeks for dismissal of the writ petition.

In view of submissions advanced, the respondent no. 8, Pradhan, Dhanurhat Gram Panchayat is directed to consider and dispose of the representation of the petitioner dated 29th January, 2025 by adopted 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 the representation of the petitioner dated 29th January, 2025 shall be disposed of by a reasoned

order which shall be communicated to the parties within a week of passing of such orders.

(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 two months from date of communication of this order.

The petitioner is directed to communicate this order to respondent No.8, Pradhan, Dhanurhat Gram Panchayat along with copy of the representation dated 29th January, 2025.

It is made clear that this Court has not gone into the merits of this writ petition.

Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.

With the aforesaid directions, the writ petition being **WPA 2975 of 2025** is disposed of.

Interim order, if any, stands vacated.

All connected applications, if any, stand disposed of.

There shall be no order as to costs.

All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.

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.)