

19.05.2025
Sl. No. 50.
D/L.
Mithun
Ct.No.39.

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

WPA 9107 of 2023

**Ashima Samanta
Vs.
The State of West Bengal & Ors.**

Mr. Mahim Sasmal,
...for the petitioner

Mr. Devranjan Das,
Mr. Partha Mukherjee
...for the private respondents

Mr. Lalit Mohan Mahata, Ld.AGP
Mr. Prasanta Behari Mahata
...for the State-respondents

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

This writ petition has been filed seeking direction
upon respondent nos.2 and 6 to demolish and remove
the illegal unauthorized construction made by
respondent nos.9, 10, 11 and 12 on plot of land
comprised within Dag No.15, Sabek Dag No.15,
No.152/2, 247/2,275/1, 97/1 Mouza-Gobardhan Pur,
J.L. No.240, District- Purba Medinipur.

The petitioner contends that she is the owner of
plot comprised within Dag No.14, Khatian No.599, J.L.
No.240, under Mouza-Gobardhan Pur, Village-
Gobardhan Pur, P.O.-Chapda, P.S.-Kolaghat, District-
Purba Medinipur, under Pulsita Gram Panchayat. The
respondent nos. 9 to 12 are adjacent plot holders of the

petitioner and they are the owners of plot of land under Mouza-Gobardhanpur, J.L. No.240, Dag No.15, Sabek Dag No.15, Khatian No.152/2, 247/2,275/1, 97/1 District- Purba Medinipur. The private respondents are raising unauthorized illegal construction without sanction building plan. The reply to the RTI application also reveals that no plan has been sanctioned in favour of the private respondents. The petitioner made representation on 20th March, 2023 before the concerned authority including Panchayet Pradhan, Pulsita Gram Panchayat. However, no steps has been taken, Hence, this writ petition.

Mr. Mahim Sasmal, learned Advocate for the petitioner submits that the record of rights shows that the nature of the land is "*Jal*". Therefore, without conversion of the classification of land, there cannot be any sanction of building plan. Reply of the Pradhan of the concerned Gram Panchanat dated 16th February, 2023 to the RTI application of the father of the petitioner shows that no such sanction building plan has been issued in favour of the private respondents. He seeks for relegating the matter to the Pradhan of local Gram Panchayat to consider and dispose of the representation of the petitioner dated 20th March, 2023.

Mr. Lalit Mohan Mahata, learned Additional Government Pleader submits that in the District of Purba Medinipur and Paschim Medinipur the

classification of land recorded as '*Jal*' in the record of rights means agricultural land and not water body. However, for sanction of building plan, conversion of such classification of land is necessary. He further submits that the matter may be relegated to the Pradhan of concerned Gram Panchayat to consider and dispose of the representation of the petitioner.

On the contrary, learned Advocate for private respondents submits that the work of construction has been undertaken prior to 2002 and that too only repairing works have been made. Permission fee has also been deposited for such construction. He seeks for dismissal of the writ petition.

Considering the above submissions, the respondent no.6, Pradhan, Pulsita Gram Panchayat is directed to consider and dispose of the representation of the petitioner dated 20th March, 2023 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 the representation of the petitioner dated 20th March, 2023 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.6, Pradhan, Pulsita Gram Panchayat along with copy of the representation dated 20th March, 2023.

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

Since affidavits have not been called for, the allegations made in the writ petition are deemed to be not admitted.

With the above observation, the writ petition being **WPA 9107 of 2023** stands disposed of.

All connected applications, if any, stand disposed of.

There will be, however, no order as to costs.

Interim order, if any, stands vacated.

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 this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Bivas Pattanayak, J.)