

17.12.2025
Sl No.163
Ct. No.15
S.A.

WPA 11643 of 2025

Susanta Manna @ Sushanta Manna & Anr.
-vs-
The State of West Bengal & Ors.

Mr. Mrinal Kanti Ghosh
Mr. Kartik Chandra Kapas
...for the petitioners
Ms. Ipsita Banerjee
...for the State

The petitioners had earlier approached this Court by filing WPA 27523 of 2024, alleging unauthorised construction at the instance of respondent nos. 9 to 11. A Co-ordinate Bench of this Court, by an order dated November 29, 2024, directed the Sub-Divisional Officer, Arambagh, to consider and dispose of the representation made by the petitioners.

In compliance with the said order, the Sub-Divisional Officer, Arambagh, by an order dated March 25, 2025, disposed of the representation, inter alia holding that the property in question requires partition by metes and bounds between the petitioners and respondent nos. 9 to 11, who are co-sharers in respect of the said property.

Learned counsel appearing for the petitioners has, however, drawn the attention of this Court to Order No. 5 dated February 5, 2025, passed by the Sub-Divisional Officer, Arambagh, in the course of the

proceedings. He submits that the report submitted before the Sub-Divisional Officer by the Block Development Officer, Khanakul-II, clearly indicates that respondent nos. 9 to 11 had obtained a sanctioned building plan for construction of a structure measuring 71.07 square metres, but have actually constructed a building measuring 107.7 square metres.

On the basis of the above, learned counsel for the petitioners contends that it is evident that respondent nos. 9 to 11 have constructed the building beyond the sanctioned plan and, therefore, the Sub-Divisional Officer ought to have directed demolition of the portion constructed in excess of the sanctioned plan.

I am, however, unable to accept the contention advanced on behalf of the petitioners. At the outset, it must be noted that the Sub-Divisional Officer, Arambagh, did not exercise jurisdiction under Section 23 of the West Bengal Panchayat Act, 1973, which contemplates action by the Sub-Divisional Officer only upon a reference made by the Panchayat Pradhan under Section 23(5) of the said Act. In the present case, the Sub-Divisional Officer acted not on the basis of such a reference, but in compliance with the direction issued by a Co-ordinate Bench of this Court

requiring consideration of the petitioners' representation.

It is evident from the impugned order that although the Sub-Divisional Officer found that the building may have been constructed beyond the sanctioned plan, the total constructed area remained within the permissible limit prescribed under the West Bengal Panchayat Act, 1973. Section 23 of the said Act permits construction of a building in a panchayat area with sanction of the Panchayat up to an area of 150 square metres and respondent nos.9 to 11 have constructed the building within an area of 107.7 square meters only. Therefore, the Sub-Divisional Officer was justified in observing that the construction in question did not violate the provisions of the West Bengal Panchayat Act, 1973.

In view of the aforesaid, the Sub-Divisional Officer directed the petitioners to seek redressal of their grievances by instituting a competent civil suit for partition of the property in question by metes and bounds.

I find no reason to interfere with the discretion exercised by the Sub-Divisional Officer. It appears that the core dispute pertains to the rights of co-sharers in respect of the property, which is essentially civil in nature. The Sub-Divisional Officer, therefore,

rightly relegated the parties to seek appropriate relief before the civil court.

Such discretionary exercise does not warrant interference in the exercise of the writ jurisdiction of this Court.

Accordingly, **WPA 11643 of 2025** is dismissed.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)