

17.09.2025
Item No. 18
Ct. No. 42
AN

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

WPA 15706 of 2025

**Biswanath Ghosh
vs.
State of West Bengal & ors.**

Mr. Anish Kumar Mukherjee
Mr. Tamoghna Pramanick
... for the petitioner

Mr. Sankar Halder
Md. Yusuf Ali
... for the State

1. The report filed by the State is taken on record.
2. By the present writ petition, the petitioner seeks for setting aside and/or quashing of the impugned order dated 6th December, 2024 passed by the Sub-Divisional Officer, Bongaon, North 24 Parganas in Misc. Case No. 2 of 2025.
3. The petitioner contends that he is the absolute owner in respect of the property measuring 6.6 satak, (more or less 4 cottahs) in L.R. Dag No. 4843 and 3.30 satak (more or less 2 cottahs) in L.R. Plot No. 4844 situated at Chandpara village, J.L. No. 54, Mouza Fulsara, L.R. Khatian No. 7304 and 664 by way of two sale deeds and his name has been duly mutated in the record of rights. The petitioner is a business man and is carrying on his business under the name and style of "*Ghosh Saree Centre*" situated at Chandpara Bus Stand under Gaighata Police Station, North 24 Parganas. In May, 2020, taking advantage of the absence of the

petitioner, the private respondents started raising unauthorised construction over the said property in question. The petitioner made representations for redressal of his grievance but as no steps were taken, the petitioner filed a writ petition being WPA 6531 of 2023.

4. The said writ petition was disposed of on 17th April, 2023 with the following directions:

“Hence, the grievance of the petitioner as contained in the representation made through the learned advocate dated February 13, 2023, shall be disposed of by the gram panchayat in accordance with law.

While doing so, the following procedure shall be adopted:-

a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent nos.8 and 9. An advance notice of the inspection shall be served upon the petitioner and the respondent nos.8 and 9 and on all other interested parties. If the parties are not available to accept notice, the same shall be affixed at a conspicuous place in the respective premises.

b) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without any sanction 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. The question of title, possession and boundary dispute etc. shall not be decided by the panchayat authorities. The only issue to be decided would be whether any construction has been raised without sanction and permission.

e) A hearing shall be given to the petitioner and the respondent nos.8 and 9. The parties must also be allowed to furnish their written objection/version to the report and adduce oral and documentary evidence in support of their contentions before the competent authority. All points raised by either party, will 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 Section 23(5) of the West Bengal Panchayat Act, 1973.”

5. Since the matter was not disposed of by the local Gram Panchayet, the writ petitioner filed a contempt application being CPAN 1380 of 2023. Upon issuance of Rule being WPCRC 43 of 2024, hearing was conducted by the local Gram Panchayet and on 10th June, 2024, the order was passed by the local Fulsara Gram Panchayet observing that no permission has been accorded to either of the parties namely petitioner or private respondent nos. 8 and 9 and direction was issued upon respondent nos. 8 and 9 to stop construction. The matter was referred to the Sub-Divisional Officer, Bongaon, North 24 Parganas with recommendation to demolish the illegal structure.
6. By the impugned order dated 6th December, 2024, the Sub-Divisional Officer, Bongaon, North 24 Parganas did not consider the matter of demolition of such illegal construction since civil suits are pending before the learned Civil Judge (Junior Division), Bongaon, North 24 Parganas between the parties being Title Suit No.43 of 2020 and Title Suit No.110 of 2022.
7. Being aggrieved by and dissatisfied with the impugned order dated 6th December, 2024, the petitioner has preferred the present writ petition.
8. Pursuant to order dated 12th September, 2025, learned advocate for the petitioner files the copy of the orders

passed in Title Suit No.43 of 2020 filed by the petitioner along with copy of plaint and injunction application as well as copy of order dated 9th September, 2025 passed in Title Suit No.110 of 2022 filed by the private respondents, which are taken on record.

9. Upon going through the copy of the orders passed in Title Suit No.43 of 2020, it is found that, at the instance of the petitioner, the learned civil court has passed an order of injunction on 18th June, 2020 restraining the private respondents and their men and agents from entering the suit property in schedule 'ka' and 'kha' of the plaint and disturbing the possession of the plaintiff in respect of the suit property and from changing the nature and character of the suit property. The said order of injunction was made absolute on 3rd March, 2022. The scheduled property in the suit is the subject matter of this writ petition. An application under Order 39 of Rule 2A has also been filed for violation of order of injunction being Misc. Case No. 63 of 2021.
10. Mr. Anish Kumar Mukherjee, learned advocate for the petitioner submits that the private respondents have violated the order of injunction passed in the civil suit and raised unauthorised construction which needs to be demolished. The Sub-Divisional Officer has not considered the aspect of illegal construction undertaken by the private respondents on the count

that civil suits are pending between the parties. Pendency of the civil suit is no bar to exercising powers by prescribed authorities under the West Bengal Panchayat Act, 1973, which has an overriding effect. He seeks for setting aside of the impugned order.

11. Mr. Sankar Halder, learned advocate for the State submits that the dispute between the parties is private and civil in nature.
12. Despite service, none appears on behalf of private respondent nos.8 and 9.
13. Upon going through the order passed by this Court in WPA 6531 of 2023, it is found that the concerned authority was directed to pass a reasoned order and communicate it to the parties and on the basis of what transpires at the hearing and during inspection, it was directed that the proceedings shall be reached to its logical conclusion in terms of Section 23(5) of the West Bengal Panchayet Act, 1973.
14. Pursuant to the filing of a contempt application, order has been passed by the local Gram Panchayet on 10th June, 2024 and matter has been referred to the Sub-Divisional Officer with the recommendation to demolish the illegal structure.
15. It appears from the impugned order that the Sub-Divisional Officer, Bongaon, North 24 Parganas has not considered the aspect of demolition of the illegal structure which was referred to it by the local Gram Panchayet on the ground of pendency of civil suit.

Therefore, it is found that the proceedings has not yet been taken to its logical conclusion.

16. In view of the direction issued in the earlier writ petition, the Sub-Divisional Officer, Bongaon, North 24 Parganas has to decide the aspect in terms of the said order of this Court.

17. Accordingly, the impugned order of the Sub-Divisional Officer, Bongaon, North 24 Parganas dated 6th December, 2024 is set aside.

18. The Sub-Divisional Officer, Bongaon, North 24 Parganas is directed to consider and decide the matter of illegal construction as mentioned in the order of the local Gram Panchayet dated 10th June, 2024 and shall issue necessary direction, if any, in accordance with law within a period of six weeks from the date of communication of this order.

19. Learned advocate for the petitioner is directed to communicate this order to the Sub-Divisional Officer, Bongaon, North 24 Parganas for necessary compliance.

20. With the aforesaid directions, the writ petition being no. **WPA 15706 of 2025** stands disposed of.

21. Consequently, connected applications, if any, also stand dismissed.

22. Interim orders, if any, stand vacated.

23. There will be no order as to costs.

24. Urgent certified photostat copy of this order, if applied for, shall be given to the parties as

expeditiously as possible on compliance of all necessary formalities.

(Bivas Pattanayak, J.)