

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

MAT 1418 of 2024

With

IA No.: CAN 1 of 2025

With

IA No.: CAN 2 of 2025

Rita Ghosh

Vs.

The State of West Bengal & Ors.

For the appellant : Mr. Arun Naskar, Advocate

Heard & Judgment on : January 29, 2025

DEBANGSU BASAK, J.:-

1. There is a delay in filing the appeal.
2. Department reports a delay of 366 days in making and preferring the appeal.
3. For the ends of justice, the causes shown in the application for condonation of delay in the appeal are accepted as sufficient. Delay of 366 days in making and preferring the appeal is condoned.
4. **IA No.:CAN 1 of 2025** is allowed.
5. Appeal is directed against the order dated April 28, 2023 passed in WPA 17189 of 2022.
6. Appeal is at the behest of the writ petitioner.

7. By the impugned order, learned Single Judge dismissed the writ petition on the ground that, the writ petitioner approached the Writ Court with vague and unsubstantiated pleadings.
8. We called upon the learned Advocate appearing for the appellant to produce a copy of the writ petition resulting in the impugned order. Learned Advocate appearing for the appellant does so.
9. We perused the writ petition.
10. Appellant seeks relief with regard to notices issued by the Narna Gram Panchayat with regard to allegations of unauthorized construction in the writ petition.
11. Apparently, this is the third round of litigation between the private parties relating to unauthorized construction. The earlier rounds resulted in the Panchayat arriving at a finding that, both the private parties, namely, the appellant as also the private respondents are guilty of unauthorized construction. One of such findings was set aside with a direction to re-do the entire exercise once again. Gram Panchayat did so. On both the occasions, Gram Panchayat came to the finding that, both the appellant and the private respondents are guilty of unauthorized construction.
12. Thereafter, Gram Panchayat issued the impugned notices on the appellant calling upon the appellant to participate in a hearing with regard to the allegation of unauthorized construction.

13. It is the contention of the appellant that, the Sub-Divisional Officer is the competent person to hear and adjudicate such dispute as to unauthorized construction and not the Narna Gram Panchayat.
14. In our view, it is for the Panchayat to first arrive at the decision whether or not there exists any unauthorized construction and then take appropriate steps for removal of the same.
15. Since the appellant as the writ petitioner does not want to appear before the Narna Gram Panchayat for participating in the decision relating to unauthorized construction, Narna Gram Panchayat will proceed as against the appellant, *ex parte*.
16. The Narna Gram Panchayat will proceed on a day-to-day basis with regard to the issue of unauthorized construction. In the event, it arrives at a finding that, there are unauthorized construction at the behest of the appellant, the Gram Panchayat will take appropriate steps for removal of the same.
17. Department will communicate this order to the District Magistrate, Howrah who is requested to ensure that this order is communicated to the relevant Gram Panchayat for compliance.
18. The decision with regard to the unauthorized construction must be arrived at by the Gram Panchayat within seven days from the date of receipt of this order. Removal of unauthorized construction, if any, is to be undertaken immediately thereafter.

19. **MAT 1418 of 2024** along with all connected applications are disposed
of without any order as to costs.

(Debangsu Basak, J.)

20. I agree.

(Md. Shabbar Rashidi, J.)

(AD)