

22.09.2025
Sl. No.2
Ct. No.42
ss

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

W.P.A. No. 17988 of 2025

Champak Das

Versus

The State of West Bengal & Ors.

Mr. Raghunath Chakraborty,
Mr. Supratik Shyamal,
Ms. Sabarnee Chatterjee,

...for the Petitioner.

Mr. Sougata Mitra,
Mr. Sujoy Ash

...for the State.

Mr. Dyutiman Banerjee,
Mr. Vishal Mallick

...for the Respondent Nos.4 to 16.

1. This matter is appearing in the list under the heading '*For Order*'.
2. By the present writ petition the petitioner has prayed for quashing/recalling the order dated 12th June, 2025 passed by respondent no.3, Sub-Divisional Officer, Diamond Harbour (annexure P18).
3. The petitioner contends that he runs a saw mill over the property under the name and style of '*Annapurna Saw Mill*' comprised within L.R. Dag No.902, R.S. Dag No.768/4945, R.S. Khatian No.1465, L.R. Khatian No.4551, Mouza Radhakantpur Abad, under Mathurapur Police

Station, District South 24-Parganas by dint of a registered deed of lease executed by one Chandratan Halder in his favour on 14th March, 1980. Late Chandratan Halder filed a suit being Title Suit No.194 of 2023 before the learned Civil Judge (Junior Division), 1st Court, Diamond Harbour for declaration and revocation of the agreement and the said suit was dismissed. Thereafter, in order to evict the petitioner from the suit premises, the private respondent filed a writ petition being WPA 24047 of 2024. As the said writ petition was dismissed on 23rd September, 2024, the private respondent preferred an appeal against such order being MAT 1919 of 2024.

4. The aforesaid appeal was disposed of by the Hon'ble Division Bench on 4th October, 2024 by following direction:

"8. In such view of the matter, we direct respondent no.3, Pradhan, Radhakantapur Gram Panchayat, Gillarchat, P.,S. Raidighi, Dist. South 24-Parganas to consider the representation of the petitioner at pages 29-30 of the stay application and after giving opportunity of hearing to the parties take a decision whether the construction is an unauthorized one.

9. Needless to mention if respondent no.3 is of the view that the construction is an unauthorized one, he shall forward its order to the Sub Divisional Officer for necessary steps under sub-section (5) of the said provision of law.

10. We make it clear we have not expressed any opinion with regard to the validity of the construction which is kept open to be decided by respondent no.3 independently and in accordance with law.

11. Respondent no.3 shall complete the enquiry and pass necessary order within three months from the date of communication of this order.”
5. Pursuant thereto, orders have been passed by the Pradhan, Radhakantapur Gram Panchayat as well the Sub-Divisional Officer, Diamond Harbour.
 6. Being aggrieved by and dissatisfied with the order passed by the Sub-Divisional Officer, Diamond Harbour on 12th June, 2025 the present writ petition has been preferred.
 7. Mr. Raghunath Chakraborty, learned Advocate for the petitioner submits that the petitioner is running a saw mill over the property-in-question on lease created in perpetuity by a registered lease of agreement. Since the private respondent could not succeed in the civil suit for revocation of the lease agreement, they have taken recourse to the West Bengal Panchayat Act in order to evict the petitioner. The Sub-Divisional Officer, Diamond Harbour has passed the impugned order on the basis of reference made by the local Gram Panchayat. The local Gram Panchayat has not passed order in accordance with the direction issued by the Appellate Court. Hence, both the orders require to be set aside.
 8. Mr. Dyutiman Banerjee, learned Advocate for the respondent nos.4 to 16 submits that the steps

have been taken by the authority concerned after order was passed in appeal. The order of the Pradhan of local gram panchayat has been passed in presence of the petitioner. However, if there is any anomaly or discrepancy in the order passed by the Pradhan of the Radhakantapur Gram Panchayat, he proposes that the matter may be relegated to the Pradhan of the said Gram Panchayat for fresh consideration in terms of the order passed by the Appellate Court. He places the order passed by the Pradhan of the Radhakantapur Gram Panchayat dated 10th March, 2025, which is taken on record.

9. Mr. Sougata Mitra, learned Advocate representing the State-respondents leaves the matter to the discretion of this Court.
10. Ongoing through the order of the Hon'ble Division Bench passed in MAT 1919 of 2024 it is found that the Appellate Court directed the respondent no.3, Pradhan Radhakantapur Gram Panchayat, Gillarchat, Police Station Raidighi, District South 24-Parganas to consider the representation of the petitioner after giving opportunity of hearing to the parties and take a decision whether the construction is an unauthorised one. It further directed the respondent no.3 to independently decide the validity of the construction in

accordance with law and complete such enquiry within a period of three months from the date of communication of the order.

11. Upon perusal of the order of the of respondent no.2, Pradhan, Radhakantapur Gram Panchayat, dated 10th March, 2025, save and except, stating that the petitioner did not produce any letter of permission, there is no independent decision of respondent no.2 as to whether the construction is unauthorised one or not. Needless to mention that there is also no independent finding of the Pradhan in regard to validity of the construction. Thus the said order has not been passed following the direction contained in the order of the Appellate Court.
12. Such being the position, the order dated 10th March, 2025 passed by the Pradhan, Radhakantapur Gram Panchayat is set aside. Consequently, the impugned order dated 12th June, 2025 passed by the Sub-Divisional Officer, Diamond Harbour, respondent no.3 is also set aside.
13. The respondent no.2, Pradhan Radhakantapur Gram Panchayat, Mathurapur-II Block, South 24-Parganas is directed to consider the representation of the private respondents strictly in accordance with direction passed in MAT 1919

of 2024 and pass necessary orders within a period of six weeks from the date of communication of this order.

14. Learned advocate for the petitioner is directed to communicate this order to the respondent no.2, Pradhan, Radhakantapur Gram Panchayat.
15. With the above direction, the writ petition being **WPA 17988 of 2025** stands disposed of.
16. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
17. Interim order, if any, stands vacated.
18. All connected applications, if any, stand disposed of.
19. There shall be no order as to costs.
20. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
21. 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.)