

**1302
2025**

THURSDAY

Court : 08
Item : DL-01
Matter : FMA
Status : DISMISSED
Bench ID : 266291
Transcriber : NANDY

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

**FMA 1 OF 2025
with
CAN 1 OF 2025**

**NIRUPAMA ROY
VS.**

THE STATE OF WEST BENGAL & ORS.

MS. ASHRULINA AMIYA GAYEN, ADVOCATE

.....for the Appellant

MS. SABNAM DE BARDHAN, ADVOCATE

.....for the State

MR. PINTU KARAR, ADVOCATE

MR. SABAB UDDIN LASKAR, ADVOCATE

MR. SAURAV ROY, ADVOCATE

.....for the Private Respondents

1. After obtaining the permission/sanction from the competent authority to construct a house after getting the financial benefits under the Pradhan Mantri Awas Yojana (G) Scheme, the appellant constructed the house. There appears to be a dispute whether the said house was constructed over the L.R. Dag No. 870 or L.R. Dag No. 868.
2. In course of hearing, it appears that the L.R. Dag No. 870 belongs to a deity and, therefore, comprised in Debottar Estate. The plot no. 868 is a joint property in which the appellant claims to be a co-sharer. Obviously, the moment the permission is sought from the competent authority; such permission can only be granted after ascertaining whether the applicant has any semblance of right, title and interest in respect of a property.
3. We do not find any fetter in seeking a permission from the competent authority by a co-sharer to construct a house over the joint property but such construction cannot be made over the property for which the permission/ sanction was not granted.

4. A proceeding was initiated by the District Magistrate being the competent authority and inspection was done which revealed that though the permission was obtained by the appellant in respect of L.R. Plot No. 868 but such construction is made on L.R. Plot No. 870, which admittedly belongs to the deity.
5. It is sought to be contended that once the construction is done on the basis of a sanction/permission granted by the competent authority, such construction cannot be branded as an unauthorized or illegal construction, more particularly, when there is a dispute with regard to the construction made over a plot of land. In other words, it is sought to be contended that unless it is ascertained that the said construction is made on the other plot than the plot, for which such permission/sanction was granted by the competent authority it is not open to the authority to demolish such structure.
6. We are not impressed with the submission advanced by the appellant for the simple reason that the moment the competent authority granted permission/sanction for construction of a structure over a plot of land, even if such construction is within the purview of the sanction/permission but on the different plot of land, it is regarded as illegal and unauthorized. A person cannot construct a house on a different plot of land for which no permission was granted.
7. The Counsel for the appellant sought to impress upon us that since the construction was made after availing the benefits under the PMAY(G) Scheme, it stand on a different pedestal that, in the event,

the demolition is made, the money so spent would go totally wasted. The benefit is given under the aforesaid scheme to a person to have a shelter which never envisaged that a person being a beneficiary under the said Scheme would still be blessed for any unauthorized and/or illegal construction so made. The moment the authorities have found that the construction is unauthorized and/or illegal, such authority is within its competent to pass a consequential order irrespective of the fact that the money spent for such illegal construction, sprang from the scheme.

8. The order of the competent authority vividly reflects that the construction is made on a different plot than the plot for which the permission/sanction was granted which cannot be said to be infirm, perverse and sustainable to be interfered in exercise of the power enshrined under Article 226 of the Constitution of India.
9. The order of the Single Bench in this regard cannot be faulted with.
10. The appeal sans merit.
11. **FMA 1 of 2025** is accordingly **dismissed** along with the connected application being **CAN 1 of 2025**.

(HARISH TANDON, J.)

(PARTHA SARATHI CHATTERJEE, J)

