

18.03.2026
SL No.26
Court No.12
(gc)

MAT 16 of 2026
CAN 1 of 2026

Smt. Tripti Biswas Roy
Vs.
State of West Bengal & Ors.

Mr. Akashdeep Mukherjee,
Mr. Soumyadeep Nag,
Mr. Satyam Pandey

.....for the Appellant.

Mr. Santanu Kumar Mitra, S.G.A.,
Mr. Amartya Pal

...for the State Respondents.

1. Affidavit of service is taken on record.
2. Despite service, none appears on behalf of the respondent nos.9 to 16.
3. The learned Advocate for the appellant submits that he had approached Mr. Prafulla Pal, learned Advocate, who had appeared before the learned Single Judge, refused to accept service of the appeal. Subsequently, the memorandum of appeal and the application were served by registered post with acknowledgement due and the postal articles have been delivered. Thus, we proceed with the appeal.
4. The learned Single Judge dismissed WPA 21320 of 2024 on the ground that the writ petitioner/appellant could not invoke the writ jurisdiction and the dispute between the parties was clearly civil in nature. Accordingly, there was no justification to interfere with the order

passed by the Pradhan, Bagula-II Gram Panchayat. His Lordship took note of the fact that the private parties had come to a consensus that the width of the road could be reduced to 6 ft. in place of 8 ft. and those private parties could continue to enjoy their premises upon such encroachment. The decision of the Pradhan of Bagula-II Gram Panchayat was under challenge in the writ petition. The said decision of the Pradhan was pursuant to a direction of the learned Single Judge in WPA 21804 of 2023. It was alleged before the learned writ court that the private parties had raised unauthorized construction by encroaching the Panchayat road. Her Lordship disposed of the writ petition with the following order:-

“As it appears that the representation of the petitioner objecting to the illegal and unauthorized construction is pending consideration at the end of the respondent authorities, no useful purpose will be served by keeping the writ petition pending.

The writ petition is accordingly disposed of by directing the respondent no. 5 to consider and dispose of the representation made by the petitioner strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioner within a period of three months from the date of communication of a copy of this order. The said respondent shall pass a reasoned order and communicate the same to all the necessary

parties including the petitioner immediately thereafter.

A spot inspection shall be conducted to ascertain the nature and extent of the unauthorized construction.

In the event, the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorized construction, in accordance with law.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

It is made clear that this Court has not entered into the merits of the claim made by the petitioner and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

The learned advocate for the petitioner is directed to forward the copy of the representation dated April 4, 2022 to the aforesaid respondent at the time of communicating the order of the Court.

The writ petition stands disposed of.”

5. The Pradhan thereafter passed an order on June 19, 2024, *inter alia*, stating that the width of the road in the deeds of the private parties was shown as 6 ft. and all

the parties agreed that the road need not be widened or restored to the original measurement of 8 ft. width, so that the parties could enjoy the construction that they had made. The purpose of the order of Her Lordship was misunderstood by the Pradhan. The order of the Pradhan is perverse. Her Lordship has specifically directed that the representation of the writ petitioner should be considered in accordance with law, within a period of three months from the date of the order and a reasoned order shall be passed. It was further directed that if the construction has been made in violation of any plan or without any plan, necessary steps shall be taken in accordance with law against such unauthorized construction. The Pradhan was directed to restrict his consideration only to the aspect of unauthorized construction. Unfortunately, the Pradhan justified the encroachment by taking a consensus from the encroachers. This order was under challenge in the second writ petition which was dismissed.

6. Learned Advocate for the appellant has relied on a reply given by the Gram Panchayat under the Right to Information Act, which indicates that the width of the road was originally 8 ft. It also appears from a document which is a Certificate of Inspection issued by the Sahayak of the Gram Panchayat that, the road had been widened to 8 ft. In the writ petition, the

appellant's contentions were that the constructions of the private respondents were unauthorized and that there had been an encroachment of the Panchayat road. The Panchayat authorities were statutorily bound to remove such encroachment and take steps against such unauthorized construction.

7. Moreover, Sections 23 and 25(2) of the West Bengal Panchayat Act, are relevant. No building can be constructed in violation of the rules and without permission. Moreover, if there is any encroachment over a Panchayat road, the Panchayat authorities are bound to remove such encroachment. Her Lordship had specifically directed the Panchayat to take steps in accordance with law on the basis of the allegations made by the appellant. Undoubtedly, such order of Her Lordship was not followed by the Pradhan. The Pradhan had passed an order, which is supporting such construction and encroachment. Moreover, the issue that the constructions of the private parties were not in accordance with law, was also not considered.
8. Under such circumstances, we are of the view that the learned Single Judge ought to have entertained the writ petition.
9. The impugned order is set aside. The order of the Pradhan dated June 19, 2024 is also set aside.

10. The Panchayat authorities are directed to take steps in accordance with law upon the appellant filing a representation containing the specific allegations with regard to the constructions of the private parties. Before any decision is taken, an inspection will be held with the help of the Amin from the Office of the Block Land and Land Reforms Officer to ascertain the original width of the road and the present width of the road. If any encroachment is found, the same shall be indicated in the report with measurements. The report shall be supplied to all the parties.
11. The inspection shall be held in presence of all the interested parties. Thereafter, the parties shall be allowed to make their submissions before the Gram Panchayat and an order will be passed. If unauthorized construction is found, steps shall be taken, in accordance with law.
12. With regard to unauthorized construction of a building, the procedure under Section 23(5) is to be followed and with regard to removal of encroachment from the road, Section 25(2) will come into operation. Thus, both these aspects are to be gone into by the Gram Panchayat and by the appropriate authority under the statute.

13. The appellant will file a representation within a week from date and the Panchayat authorities will complete the process within a period of four weeks thereafter.

14. Accordingly, the appeal and the application are disposed of.

15. Copy of this order will be served upon the private parties.

16. There shall be no order as to costs.

17. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)