

March 18, 2026
(19) ARDR

WPA 993 of 2026

Somesh Ranjan Debnath
Vs.
The State of West Bengal & ors.

Sr. Adv. Nilanjan Bhattacharjee,
Adv. Saikat Dey,
Adv. Akash Adak,

...for the petitioner.

Adv. Pramiti Bandopadhyay,
Adv. Akash Dutta,

...for the State.

Assailing the order passed by the Pradhan, Jotiesriram Gram Panchayat on 20th June, 2025 turning down the request of the petitioner for permission to raise construction on the plot in question, learned counsel for the petitioner submits that such permission was turned down solely on the ground of pendency of a civil suit between the petitioner and the private respondent. Though it is a fact that a Title Suit is pending between the petitioner and the private respondent, the prayer for temporary injunction filed by the private respondent therein has been rejected by the learned trial Court upon hearing both the parties. Also, pendency of a Title Suit in respect of the plot in question has not been included as one of the grounds for withholding or refusing such permission under Rule 32 of the West Bengal Panchayat (Gram Panchayat Administration) Rules, 2004.

It appears that the private respondent has filed a suit for declaration and injunction against the petitioner in

respect of the plot in question wherein prayer for injunction made by the private respondent has been rejected by the learned trial Court on a prima facie finding that the petitioner is in possession of the land and the private respondent has failed to produce any document in support of his title or possession in respect of the same. It is a fact that pendency of a Title Suit in respect of the plot in question has not been included as a ground for withholding or refusing permission under Rule 32 of the 2004 Rules.

The Hon'ble Supreme Court, in Special Leave to Appeal (C) no. 12400 of 2023, has observed that even during pendency of a Title Suit, construction can be raised in the plot in question pursuant to the building permission granted by the concerned authority. However, such permission/construction shall be subject to and shall abide by the outcome of the suit.

In view of the fact that there is no order of injunction in respect of the plot in question, the Pradhan Jotiesriram Gram Panchayat, being the 4th respondent herein, ought not to have refused permission for construction de hors the 2004 Rules.

The order passed by the 4th respondent on 20th June, 2025 is set aside. The 4th respondent is directed to accord necessary permission for construction within four weeks from the date of communication of this order in the plot in

question to the petitioner subject to the petitioner complying with all legal formalities.

However, it is made clear that the said construction shall be completely at the risk and peril of the petitioner and shall abide by/be subject to the result of the suit.

The writ petition is accordingly disposed of.

There shall however, be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to have been admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)