

01.07.2026
M/L No.122
Court No.12
(gc)

**MAT 140 of 2026
CAN 1 of 2026**

**Rabindra Nath Modak
Vs.
The State of West Bengal & Ors.**

Mr. Pankaj Halder,
Mr. Sanatan Panja,
Mr. Arunesh Pathak

... for the Appellant.

Ms. Susmita Saha Dutta, Ld. A.G.P.,
Ms. Tanusree Ghosh

... for the State.

1. Affidavit-of-service is taken on record. Despite service none appears for the other respondents, apart from the state respondents. We find from the order impugned before us that, the learned Single Judge had erroneously relied upon the decision of the Pradhan of Dhanurhat Gram Panchayat. The learned Court had failed to apply the provisions of law, which prohibit construction on any land, which is not classified as homestead land.
2. Secondly, the issue whether there was a sanction for the alleged construction or not, had not been looked into. The Gram Panchayat's report was incorrectly relied upon by the learned Single Judge.

3. Moreover, the West Bengal Panchayat Act, 1973 was already in operation in 2012, when the alleged construction had been raised.
4. Under such circumstances, the order impugned is set aside.
5. The matter is remanded to the learned Single Judge, for a necessary decision as to the legality and validity of the findings of the gram panchayat. The question whether the Pradhan of the Gram Panchayat had the authority to refuse to take steps in respect of the construction, shall also be decided.
6. Under such circumstances, the appeal and the connected application are disposed of.
7. Liberty to mention before the learned Single Judge having the determination, upon due notice to all parties.
8. Urgent Xerox certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Shampa Sarkar, J.)

(Smita Das De, J.)