

02.07.2026
SL No.19
Court No.12
(gc)

**FMA 230 of 2026
CAN 1 of 2026**

**Rokaya Begum
Vs.
The State of West Bengal & Ors.**

Mr. Mrinal Kanti Ghosh,
Mr. Chandra Nath Sarkar,
Ms. Bipasha Bhattacharyya

... for the Appellant.

Mr. D.N. Ray, Ld. G.P.,
Ms. Susmita Saha Dutta, Ld. A.G.P.,
Ms. Tanusree Ghosh

... for the State.

Mr. Masrur Ahamed

...for the Respondent Nos.7 & 8.

1. Affidavit-of-service filed in Court is taken on record.
2. The appeal arises out of an order dated January 6, 2026 passed in WPA 25682 of 2025. The appellant approached the learned Single Judge for a direction upon the concerned gram panchayat to initiate proceedings and decide whether the construction raised by the respondent nos.7 and 8 was unauthorized or not.
3. According to the appellant, the construction was on a land which was classified as “Pukur Par” and the construction was without any permission from the competent authority.
4. Mr. Ahamed, learned Advocate for the respondent nos.7 and 8 submits that the order impugned does not call for any

interference. His Lordship had rightly recorded that time and again the appellant had approached the Civil Court for various reliefs and as such the appellant's remedy would be before the Civil Court. It is further contended that the appellant had already approached the Civil Court by filing an application alleging violation of the order of injunction. Thus, the writ petition on the self-same cause of action was not maintainable.

5. We have perused the order impugned. We are of the view that the proceeding before the learned Civil Judge is with regard to the partition of the property and right, title, interest and ownership of the co-sharers, etc. The order of injunction cannot prohibit the panchayat authorities from proceeding on the basis of the complaint lodged by the appellant with regard to an unauthorized construction.
6. Thus, we direct that the gram panchayat will consider and dispose of the representation of the appellant dated October 11, 2025 and while doing so, the following procedure should be adhered to:-

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of the appellant and the respondent no.7 & 8. An

advance notice of the inspection shall be served upon the appellant and the respondent no.7 & 8. If the parties are not available to accept notice, the same shall be affixed at a conspicuous place in the premises.

- b) A report of such inspection shall be prepared along with the sketch map, indicating the extent and nature of unauthorized construction, if any.
- c) Such report shall be handed over to the parties. The question of right, title, possession, encroachment and boundary dispute, shall not be decided by the gram panchayat. The only issue to be decided will be whether there is any sanction or permission for such construction or the construction is in violation of the relevant laws.
- d) A hearing shall be given to the appellants and the respondent no.7 & 8. The parties must also be allowed to furnish their written objection/version to the report and adduce oral and documentary evidence in support of their contentions before the competent authority. All points raised by either party, will be decided.

- e) A reasoned order shall be passed and communicated to the parties. On the basis of what transpires at the hearing and during inspection, the proceedings shall be reached to its logical conclusion in accordance with law, upon due compliance of Section 23(5) of The West Bengal Panchayat Act, 1973.
 - f) In the event the order of injunction prohibits any action by the authority insofar as demolition is concerned, the appellant may approach the Civil Court for vacation or modification or clarification of the order of injunction.
- 7. This order shall not be construed as an opinion of this Court on the correctness of the allegations made by the appellant. All the issues, will be decided by the concerned authority, in accordance with law, independently.
 - 8. The proceedings before the gram panchayat are independent of the rights and contentions of the parties in the civil suit.
 - 9. The entire exercise shall be completed within a period of two months from the date receipt of appellant's representation.
 - 10. Under such circumstances, the appeal and the connected application are disposed of.

11. A copy of the writ petition be served upon the concerned gram panchayat.
12. 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.)