

11.03.2026
SL No.9
Court No.12
(gc)

**FMA 243 of 2026
CAN 1 of 2026**

**Shri Jyotirindra Chattopadhyay
Vs.
State of West Bengal & Ors.**

Mr. Kishore Mukherjee

.....for the Appellant.

Ms. Sabnam De Bardhan, Junior Govt. Adv.,

Mr. Ranjit Rajak

...for the State.

1. Affidavit-of-service is taken on record.
2. Despite service, none appears on behalf of the respondent Nos.5 to 7. It is also to be noted that the non-appearing respondents also did not appear before the learned Single Judge.
3. Ms. Sabnam De Bardhan files a report prepared by the Block Development Officer.
4. The issue of unauthorized construction is to be gone into by the concerned Gram Panchayat, namely, Sribati Gram Panchayat, as per the provisions of Section 23 of the West Bengal Panchayat Act, 1973.
5. The scope of interference in an intra-court appeal is limited. Unless there is blatant error on the face of the order, the appeal should not be entertained.
6. We find from the order dated January 8, 2026, that the learned Single Judge dismissed the writ petition on the ground that the appellant approached the Court

belatedly. The Court proceeded on the principles of grant of injunction, *inter alia*, holding that a Civil Court would have refused injunction, if there was a delay. Under such circumstances, the High Court also could not favour the writ petitioner/appellant with any order by directing the Panchayat authority to take steps in accordance with law, on the allegation of unauthorized construction, especially because the dispute was clearly private in nature.

7. The learned Single Judge lost sight of the fact that unauthorized construction is prohibited in law. To raise a construction, grant of permission from the sanctioning authority is the statutory mandate and the building proposed to be constructed has to be in accordance with the building rules. If there are allegations that constructions have been raised by anybody in violation of law, it is the bounden duty of the respondent/authority to look into such allegations and come to a fair and impartial finding, upon carrying out necessary enquiry and investigation as per law, in the presence of the parties and by allowing the respective parties to make their submissions before the concerned authority.
8. In our considered view, the order impugned suffers from illegality, as it does not consider the provisions of law. Delay in filing the complaint does not defeat the

purpose behind the filing of the writ petition. Unauthorized construction is a burden on society, and cannot be encouraged. Anybody can allege before the authority that there has been statutory violation by a party. The report of the Block Development Officer also throws some light on the factual allegations.

9. Under such circumstances, the impugned order is set aside.
10. The appellant is granted liberty to approach the Panchayat authority by filing a comprehensive application, with the details of the allegations and the Panchayat authority will act and proceed in accordance with law by initiating proceedings under Section 23 of the said Act and reach the same to its logical conclusion.
11. Needless to mention that, full opportunity shall be given to all the necessary and interested parties and the Panchayat authority will come to a specific finding. A reasoned order shall be passed, which shall be communicated to the parties.
12. Entire exercise shall be completed within 8 weeks from the date of communication of this order.
13. It is made clear that we have not gone into the rival contentions of the parties and the Panchayat authority will proceed independently and in accordance with law. Allowing this appeal shall not be construed as an

acceptance of the allegations of the appellant. These allegations will have to be proved by the appellant at the appropriate proceeding before the Panchayat authority.

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

15. There shall be no order as to costs.

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

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)