

Item No.11
11.03.2026
Court. No. 12
GB

MAT 409 of 2026
With
CAN 1 of 2026

Smt. Lakshmi Rani Paul & Anr.
Versus
The State of West Bengal & Ors.

*Mr. Milan Chandra Bhattacharjee, Sr. Adv.,
Ms. Sulagna Bhattacharya*

...for the Appellants.

*Mr. Sounak Bhattacharya,
Mr. Sounak Mondal,
Mr. Anirban Saha Roy,
Ms. Bipasha Bhattacharyya*

...for the Respondent No.11.

*Ms. Pramiti Bandopadhyay,
Mr. Akash Dutta*

...for the State.

1. Affidavit-of-service filed in Court today, is taken on record.
2. The appellants are aggrieved by an order dated February 9, 2026, passed in WPA 28638 of 2025 by a learned Single Judge. The learned Judge rejected the writ petition on the ground that the allegation of unauthorized construction against the respondent no.11 was not sustainable in law in view of the fact that the construction had been completed long back and the appellants could not turn around at a belated stage and raise any complaint against such construction. The specific allegation of the appellants was that the construction was on a 'Doba'.
3. The learned court held that it did not find any substance in the contention of the petitioner as the shop room was constructed with a sanction and shop

room was in existence at the time of filing of the writ petition. According to the learned court, delay defeated equity and amounted to acquiescence and lack of bona fide. Exercise of power under Article 226 of the Constitution of India was discretionary and could not be invoked to revive a right which the appellants had waived.

4. Mr. Sounak Bhattacharya, learned advocate for the respondent no.11 submits that only new constructions are amenable to the jurisdiction of the panchayat authorities, in order to test whether they are unauthorized or not. In this case, sanction had been granted sometime in 1995. The question of reviving the issue of illegality in the construction did not arise. He relies on the amended provisions of Section 23 of the West Bengal Panchayat Act, 1973, in support of such contention.
5. Mr. Milan Chandra Bhattacharjee, learned senior advocate submits that if any sanction had been granted, that was illegally granted, without conversion of the land and was based on forged documents. He refers to the unamended provisions of Section 23, which also provides that construction could not be raised without permission.
6. We have considered the rival contentions of the parties. We have considered Rule 23E of the West Bengal Panchayat (Gram Panchayat Administration) Rules, 1981, which is quoted below:-

“23E. Classification of land for construction.- If any structure or building is proposed to be erected or constructed on any land recorded otherwise than as homestead land, the Gram Panchayat shall withhold permission for such erection or construction until the applicant produces an order allowing change of classification of the said land by the collector or any other competent authority having jurisdiction under any law for the time being in force”

7. The panchayat authorities could not grant permission for construction on a land which is not a homestead land. Under such circumstances, we find substance in the contentions of the appellants. The order impugned is set aside. The learned court could not have rejected the writ petition solely on the ground of delay, without considering the provisions of law.
8. Under such circumstances, the appeal is allowed.
9. The appellants are directed to approach the concerned gram panchayat by filing a comprehensive representation, with all the allegations and the concerned gram panchayat will dispose of the same in accordance with law, upon giving an opportunity of hearing to the parties.
10. Needless to mention, the appellants shall be at liberty to specifically raise the issue of construction on a ‘Doba’ before the appropriate authority. Steps

may also be taken by approaching the authority under the West Bengal Land Reforms Act.

11. Accordingly, the appeal and the connected application are disposed of.
12. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)