

Item No.15
21.04.2026
Court. No. 12
GB

FMA 489 of 2026
With
CAN 1 of 2026

Anima Rout & Anr.
Vs.
The State of West Bengal & Ors.

*Mr. Ashim Kumar Routh,
Ms. Ananya Mondal,
Mr. Subhayan Barik,
Ms. Manishka Dhar*

...for the Appellants.

*Mr. Tapan Dutta Gupta,
Mr. Parvej Alam,
Ms. Rituparna Ghosh,
Mr. Sourav Sardar*

...for the Respondent No.9.

1. Affidavit-of-service filed in Court today, is taken on record.
2. The appellants are aggrieved by an order dated February 25, 2026, passed in WPA No.8488 of 2025.
3. The appellants' case was that the respondent no.9 had raised a construction on a land belonging to the Zilla Parishad, without any permission for such construction. As the Zilla Parishad did not take steps, the appellants approached the writ court.
4. The appellants specifically alleged that in raising such construction without any permission on the land of the Zilla Parishad, the respondent no.9 had actually obstructed the egress and ingress of the appellants.
5. The learned writ court dismissed the writ petition, inter alia, holding that the appellants had allowed

the respondent no.9 to make such construction and had approached the writ court belatedly. Secondly, the dispute was civil in nature. The allegation with regard to the absence of a sanction plan according to the learned Judge, was intertwined with the civil dispute.

6. In our view, the order impugned suffers from patent illegality for the following reasons:-

a) No person is allowed to raise any construction except with permission, and according to law.

b) A construction cannot be raised on a land belonging to the Government or a local authority, without the right to use such land.

c) The law provides for a mechanism by which any person found to be in unauthorized occupation on Government land, can be evicted.

d) The appellant had approached the Zilla Parishad with their allegations, which the Zilla Parishad should have been asked to consider. Instead, the learned court recorded that the dispute was civil in nature.

e) The dispute is not civil in nature. The appellants, as the citizens, have drawn the attention of a local authority as also the permission granting authority to take steps with regard to an alleged unauthorized

construction and wrongful occupation of the land of the Zilla Parishad.

7. The contentions of the learned advocate for the respondent no.9 that the writ petition was filed at a belated stage, cannot be accepted, inasmuch as, the complaint is with regard to infraction of law and irregularities in the construction, which only the authority has the right to decide.
8. Under such circumstances, the order impugned is set aside. The appellants are granted liberty to file an appropriate application before the concerned Zilla Parishad with details of the allegation which shall be considered and disposed of by the Zilla Parishad strictly in accordance with law. Before any decision is taken, inspection shall be held in the presence of the appellant and the respondent no.9. A report of the inspection shall be prepared and handed over to the parties. The parties will then be allowed to respond to the said report and make oral submissions before the concerned authority and, thereafter, the authority will pass a reasoned order.
9. If there is unauthorized encroachment on Government land or land of Zilla Parishad, steps shall be taken in terms of the West Bengal Public Land (Eviction of Unauthorized Occupants) Act, 1962 for demolishing the structure and evicting the respondent No. 9. The entire exercise shall be

completed within a period of eight weeks from receipt of the appellants' application.

10. In the event the construction is not on Zilla Parishad's land, but the construction is found to be without sanction, the matter will be referred to the concerned gram panchayat for necessary action, in terms of Section 23(5) of the West Bengal Panchayat Act, 1973.
11. We are unable to comprehend how the learned Judge held that the construction in the absence of a sanction plan was intertwined with the civil dispute, whereas requirement to obtain sanction is a statutory mandate for every person who wishes to raise a construction.
12. In view of the above, we restrain the respondent no.9 from alienating, encumbering or changing the nature and character of the subject construction.
13. Accordingly, the appeal and the connected application are disposed of.
14. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)