

Item No.27
22.06.2026
Court. No. 12
GB

FMA 560 of 2026
With
CAN 1 of 2026

Sk. Perveg
Vs.
The State of West Bengal & Ors.

*Md. Shah Minhajuddin,
Mr. Shah Jahan Hossain,
Ms. Sanjida Sultana*

...for the Appellant.

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

...for the State.

1. Affidavit-of-service filed in Court today, is taken on record.
2. Despite service, none appears on behalf of the respondent nos.5, 6 and 10.
3. The appeal before us is at the instance of the writ petitioner who suffered dismissal of WPA 1090 of 2026. The appellant preferred the writ petition challenging inaction on the part of the panchayat authorities in dealing with an alleged unauthorized construction. It was submitted that the respondent no.10 had raised a construction without conversion of the land to Bastu and without any permission. Reliance was placed on the reply given by the Pradhan under the Right to Information Act to the appellant, inter alia, stating that no sanction had been granted to the said respondent no.10 for raising any construction.

4. His Lordship was of the view that although the construction continued for some time, the appellant raised an objection at a belated stage and equity demanded that such unauthorized construction should not be demolished.
5. We do not agree with the finding. The law requires a person interested to raise any construction within a panchayat area, to obtain permission from the gram panchayat. If such construction is beyond the measurement given under the said statute and the rules, then the permission granting authority is either the panchayat samiti or the zilla parishad.
6. The allegation is that the construction is a two storeyed building and the permission granting authority is the gram panchayat. There is also an allegation that conversion of the land has not been effected. The law stipulates that the panchayat authorities should not grant permission to build on any land, which is not a homestead land.
7. Under such circumstances, there are various allegations of illegality in the construction. When the law enjoins a duty upon the panchayat authorities to take steps in respect of illegal constructions, His Lordship could not have dismissed the writ petition. The allegations should have been looked into by the authorities.
8. Under such circumstances, the order impugned is set aside.
9. Liberty is granted to the appellant to file a detailed representation before the concerned authority and

the authority will thereafter act and proceed in accordance with law.

10. While doing so, the following procedure shall be adopted:-

- a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of the appellant and the respondent no.10. An advance notice of the inspection shall be served upon the appellant and the respondent no.10. 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 corporation. The only issue to be decided will be whether the construction is on a land which was not converted to Bastu and whether the construction was without a sanction/permission or not.
- d) A hearing shall be given to the appellant and the respondent no.10. 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 in accordance with Section 23(5) of The West Bengal Panchayat Act, 1973 .

11. 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 raised will be decided by the concerned authority, in accordance with law.
12. The entire exercise shall be completed within a period of four months from the date receipt of appellant's representation.
13. Under such circumstances, the appeal and the connected application are disposed of.
14. Urgent Xerox certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)