

29.06.2026
Court No. 12
Item No. 16
Sandip

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

F.M.A. 562 of 2026
I.A. No : CAN 2 of 2026

Sujit Khan
-Versus-

The State of West Bengal & Ors.

Mr. Sandipan Banerjee,
Mr. Tanmoy Mukherjee,
Mr. Pallab Khan,
Ms. Priyanka Sen
.....for the appellant.

Mr. Debayan Sen,
Mr. Sumalya Chakraborty
.... for the respondent nos. 5 & 6.
Mr. Subir Banerjee,
Mr. A. Sinha Roy
....for the respondent no. 9.

Re : CAN 2 of 2026

- 1) Affidavit-of-service filed on behalf of the appellant is taken on record.
- 2) CAN 2 of 2026 is an application for restoration of F.M.A. 562 of 2026, which was dismissed for default on May 14, 2026.
- 3) Considering the averments in Paragraphs 11 to 13 of the said application, we are satisfied with the explanation as to why the appellant could not be present before the Court when the matter was called on and dismissed for default.
- 4) Accordingly, CAN 2 of 2026 is allowed.
- 5) F.M.A. 562 of 2026 is restored to its original file and number.

Re : FMA 562 of 2026

- 6) We find substantial reason to remand the writ petition for fresh hearing upon exchange of affidavits.

7) The Pradhan of the Gram Panchayat as also the S.D.O., Sadar, Chinsurah will file separate affidavits before the learned Single Judge, supporting the grant of sanction to the respondent No. 9.

8) We find from the records that, there was a, prima facie, finding of unauthorized construction in a contempt proceeding and a direction was issued upon the Pradhan, to take steps in accordance with law. We also find that during the hearing of the contempt application, the Pradhan had made a submission that the Gram Panchayat had decided to grant post facto sanction in respect of the disputed construction.

9) Her Lordship did not accept such submission of the gram panchayat and set aside the decision that might have been taken to grant post facto sanction in respect of the construction.

10) Thereafter, Her Lordship directed the panchayat authorities to proceed in accordance with law. When the gram panchayat proceeded on the basis of such order, a resolution of the gram panchayat of 2017 emerged for the first time and it was recorded that, the said resolution would indicate that sanction had been granted sometime in 2017. However, an irregularity was found, inasmuch as, there were no records to indicate filing of an application and payment of processing fee. The matter was sent to the SDO, who held that there was a sanction to construct.

11) The earlier orders of the writ Court as also the order passed in the contempt application were mentioned in W.P.A. 28764 of 2025, which is the writ petition from which the order impugned has been passed.

12) His Lordship was of the view that the presumption was in favour of the sanction which was granted by the gram panchayat, in discharge of official duty.

13) However, the orders passed in the earlier writ petition and the contempt application indicate that a different stand was taken by the gram panchayat. All such relevant documents were ignored by His Lordship.

14) We find pleadings with regard to such issues in the writ petition. Under such circumstances, the order impugned is set aside. The matter is remanded to the learned single Judge for fresh hearing, upon exchange of affidavits. All points are left open for adjudication.

15) It is surprising to note that even if the receipt was not available, the book of accounts of the gram panchayat or the bank statement of the gram panchayat could throw some light on such aspect, as to whether fees were paid by the respondent No. 9, prior to any sanction being granted. There should be some record with the panchayat authorities with regard to receipt of money.

16) Accordingly, the appeal and the connected application are disposed of.

17) Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Shampa Sarkar, J.)

(Smita Das De, J.)