

Item No.28
22.06.2026
Court. No. 12
GB

FMA 570 of 2026
With
CAN 1 of 2026

Md. Giasuddin Molla
Vs.
The State of West Bengal & Ors.

*Mr. Shibjit Mittra,
Mr. Subhasish Mitra,
Ms. Triparna Das*

...for the Appellant.

*Ms. Susmita Saha Dutta, Ld. A.G.P.,
Ms. Tanusree Ghosh*

...for the State.

Mr. Suman Basu

...for the Respondent No.4.

1. Affidavit-of-service filed in Court today, is taken on record. None appears for the respondent Nos. 7 to 14.
2. The appeal before us is at the instance of the writ petitioner who suffered dismissal of WPA 8506 of 2026. The appellant preferred the writ petition challenging inaction on the part of the panchayat authorities in dealing with an alleged unauthorized construction by private parties.
3. His Lordship dismissed the writ petition on the ground that the appellant had failed to disclose specific particulars regarding the nature and description of the alleged unauthorized construction. It was further observed that the photographs annexed to the writ petition at pages 24 and 25 did not disclose any ongoing or identifiable unauthorized construction.

4. It appears from the pleadings as also the representation filed before the panchayat authorities that the construction on L.R. Plot No.231 of Mouza – Krishna Ballavbati was raised on a ‘Khamar’ without any conversion. The representation also records that the construction was made without any sanction from the gram panchayat.
5. Thus, we find that the observations of His Lordship are contrary to law. The allegations of the appellant were two-fold. First, that the construction was made on a ‘Khamar’ without conversion of the land to a homestead land, which could not be permitted and secondly, the construction was raised in a panchayat area, without any sanction.
6. Under such circumstances, the order impugned is set aside.
7. 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.
8. 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.11 to 14. 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 there has been conversion in accordance with law and whether there has been any sanction or permission for such construction.
- d) A hearing shall be given to the appellant and the respondent no.11 to 14. 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, upon due compliance of Section 23(5) of
The West Bengal Panchayat Act, 1973.

9. 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, will be decided by the concerned authority, in accordance with law, independently.
10. The entire exercise shall be completed within a period of four months from the date receipt of appellant's representation.
11. Under such circumstances, the appeal and the connected application are disposed of.
12. 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.)