

Item No.12
01.07.2026
Court. No. 12
GB

MAT 653 of 2026
With
CAN 1 of 2026

Bamapada Santra & Ors.
VS
The State of West Bengal & Ors.

Sk. Toslim Ali

...for the Appellants.

*Ms. Susmita Saha Dutta,
Ms. Tanusree Ghosh*

...for the State.

*Mr. Dhananjay Banerjee,
Mr. Surajit Basu*

...for the Respondent No.6

1. Affidavit-of-service and supplementary affidavit filed in Court today, are taken on record.
2. The appeal is at the instance of the persons whose construction was alleged to be unauthorized by the writ petitioner. The appellants are aggrieved by the order of the learned Single Judge with regard to the recording of the submissions of the writ petitioner.
3. We find that Her Lordship had merely recorded the allegations of the writ petitioner and had not come to any conclusion.
4. Her Lordship recorded that the construction had encroached a public road and referred to a report of the Assistant Director and Block Land and Land Reforms Officer, Daspur-II which was submitted before the Sub-Divisional Officer. The report also indicated that, there had been some encroachment.

5. However, Her Lordship did not come to any finding on the basis of the report and the allegations made in the writ petition, but has relegated the matter to the panchayat authorities for consideration of the allegations made by the writ petitioner.
6. Under such circumstances, the appeal is not required to be adjudicated on the basis of the points raised by the appellants. The submissions of the parties which had been recorded in the order, cannot be binding on the authorities. The panchayat authorities will decide the entire issue independently and on the basis of the submissions and documents to be relied upon by the parties. While disposing of the representation of the writ petitioner dated July 24, 2024, the panchayat authority will adhere to the following procedure:-
 - a) An inspection of the site shall be conducted. Such inspection shall be held in the presence of the appellants and the respondent no.6. An advance notice of the inspection shall be served upon the appellants and the respondent no.6. 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 panchayat authority. The only issue to be decided will be, whether the construction has been made with a sanction or permission and whether the construction is on a panchayat road.

d) A hearing shall be given to the appellants and the respondent no.6. 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.

7. This order shall not be construed as an opinion of this Court on the correctness of the allegations made by the appellants. All the issues will be decided by the concerned authority, in accordance with law, independently.

8. The entire exercise shall be completed within a period of four months from date.
9. Accordingly, the appeal and the connected application are disposed of.
10. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)

(Smita Das De, J.)