

July 1, 2026
(14) ARDR

WPA 10257 of 2026

Joy Prokash Ghosh & anr.
Vs.
The State of West Bengal & ors.

Adv. Partha Pratim Roy, Adv. Samrat Chakraborty,	...for the petitioners.
Adv. Dilip Kumar Samanta, Adv. Debapriya Samanta, Adv. Akash Kumar Chakraborty, Adv. Roktim Sidhanta, Adv. Tiya Singh Ray, Adv. S. Houlader,	...for the respondent no.8.
Adv. Lalratan Mondal,	...for the respondent no.9.
Adv. Madhu Jana, Adv. Puja Sonkar,	...for the State.

The petitioners have assailed the order passed by the Pradhan, Kuthirampur Gram Panchayat on 12th March, 2026 directing them to demolish the alleged unauthorised construction within three months from the date of receipt of the order. Learned counsel submits that the construction in question has been raised under the Pradhan Mantri Awas Yojana (Urban) Scheme which does not require any sanction.

Learned counsel for the private respondents submits that in the garb of raising construction under the scheme, the petitioners have raised a three storied building which is not permitted under the said scheme.

Learned counsel for the private respondents submits that the order impugned was passed in compliance with the order of this Court and the entire file relating to the

construction was sent to the concerned Sub Divisional Officer for taking further steps in the matter.

By the order passed on 11th March, 2024 in WPA 27272 of 2023, a coordinate Bench of this Court directed the Pradhan, Kuthirampur Gram Panchayat to consider and dispose of the representation submitted by the petitioners after granting reasonable opportunity of hearing to all the necessary parties including the petitioners within a stipulated time frame. Pursuant to the said order, hearing was held by the Pradhan, Kuthirampur Gram Panchayat and by the order impugned dated 12th March, 2026, the Pradhan held as hereunder:-

“In view of such admission and confession of Joyprakash Ghosh and Joydeb Ghosh, it appears to the undersigned that the erection of building so made by Joyprakash Ghosh and Joydeb Ghosh is wholly illegal and unauthorised and the same is liable to be demolished and as such in terms of Section 23(6) of the West Bengal Panchayat Act, 1973, the owners Joyprakash Ghosh and Joydeb Ghosh are directed to demolish the building erected by them in the said plot in question being Plot No.606, L.R. Khatian No.1089, J.L. NO.28, Mouza – Barbaria, Police Station – Bhagwangola in the District of Murshidabad within three months from the date of receipt of this Order and in default, the authority would effect demolition of the building and shall recover the cost thereof from the owners namely Joyprakash Ghosh and Joydeb Ghosh as a public demand”.

By the said order, the Pradhan directed demolition of the building erected by the petitioners themselves without referring the matter to the Sub Divisional Officer in terms of Section 23 (5) of the West Bengal Panchayat Act, 1973. In a contempt application filed by the private respondents, this Court directed the Pradhan to forward the entire file relating to the said construction to the concerned Sub Divisional Officer for taking further steps in the matter. In compliance thereof, the matter was referred to the Sub Divisional Officer where hearing is still pending.

Upon consideration of the submission made on behalf of the parties and material on record, this Court is of the view that the Pradhan has acted beyond his authority in directing the petitioners to demolish the alleged construction without referring the issue to the Sub Divisional Officer with his comments as recorded in the order impugned. Therefore the later part of the order is required to be quashed/set aside. The portion of the order which is quashed/set aside is as follows:

“The owners Joyprakash Ghosh and Joydeb Ghosh are directed to demolish the building erected by them in the said plot in question being Plot No.606, L.R. Khatian No.1089, J.L. NO.28, Mouza – Barbaria, Police Station – Bhagwangola in the District of Murshidabad within three months from the date of receipt of this Order and in default, the authority would effect the demolition of the building and shall recover the cost thereof from the owners

namely Joyprakash Ghosh and Joydeb Ghosh as a public demand”.

However, since the issue is pending before the Sub Divisional Officer, Lalbagh, being the 4th respondent herein, the said respondent is directed to deal with the issue in terms of Section 23(5) of the Act of 1973 and pass a reasoned order within four weeks from the date of communication of this order.

The decision taken by the authority shall be communicated to the parties within a week thereof.

The writ petition is accordingly disposed of.

There shall however, be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to have been admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)