25.11.2026
Court No. 12
Item No.20
Cp

FMA634 of 2026
With
CAN 1 of 2026

Kuldip Bera
Vs.
The State of West Bengal & Ors.

Mr. Manoranjan Jana,
Ms. Mitali Jana
... for the Appellant.

Mr. Sauvik Nandy
Mr. Sourav Sengupta
Mr. Niladri Saha
... for the State.

Ms. Bina Baidya
... for the Respondent Nos. 9 to 12.

1. Perused the report prepared by the Revenue Inspector, Office of the Block Land & Land Reforms Officer, Pathar Pratima, South 24 Parganas.
2. It appears from the records that the constructions have been made on some lands, in respect of which the charitable dispensary of the appellant has been recorded as the raiyat in the LR records.
3. It was the specific case of the respondent Nos. 9 to 12 that the constructions were made under the PMAY Scheme (Pradhan Mantri Awas Yojana), and as such, the construction would not be governed by the provisions of Section 23 of the West Bengal Panchayat Act, 1973.
4. The appellant contended that some of the constructions were on Pukurpar or Doba or Danga

and not on bastu land. The report also supports such contention.

5. Thus, we are unable to sustain the order impugned before us, inasmuch as, the dispute between the parties is not civil in nature, insofar as the impugned constructions are concerned.

6. In the event, the construction had been made under the PMAY Scheme, the beneficiaries under the scheme were required to prove their right to construct over the land. They should be owner of the land or should claim through the owner. We are informed that a civil suit is pending, but the report of the Revenue Inspector clarifies that the persons who had constructed on the lands, did not produce any document in support of their right over the lands.

7. Thus, the documents submitted by the learned advocate for the respondent nos. 9 to 12 indicate that benefits were given under the PMAY Scheme, but we are unable to ascertain whether those benefits were extended for construction on the plots in question or not.

8. Secondly, we are also unable to understand how the benefits were granted to the respondent nos. 9 to 12 under the PMAY scheme in the absence of any document of title or right of possession in respect of the lands in question. Admittedly, the

record of rights stand in the name of the charitable dispensary.

9. Under such circumstances, the appeal is allowed. The order impugned is set aside.

10. The Sub-Divisional Officer, Kakdwip, respondent no.2 herein, will cause an inspection of the constructions and the records to ascertain whether the construction on those plots were under the PMAY Scheme or not and if so, whether the benefit was granted in accordance with the Scheme, especially with regard to the ownership.

11. In the event it is found that the construction has been made strictly in accordance with the PMAY Scheme or any other similar scheme, in that event, the Sub-Divisional Officer will further ascertain whether such construction conforms to the model drawing/plan supplied by the authority for construction under the PMAY scheme.

12. If it is found that the benefit was wrongly granted or the construction was wrongly erected in contravention of the provisions of the West Bengal Land Reforms Act, 1955, Rule 26 of the West Bengal Panchayat Act, 1973 or the scheme, an order to that effect shall be passed and supplied to the parties.

13. Thereafter, the appellant will be at liberty to approach the civil court praying for vacation

and/or modification of the interim order on the basis of the report.

14. Unauthorized construction, if detected, shall be dealt with in accordance with law by the competent authority under the PMAY scheme. Construction on the doba, pukurpar or danga shall be demolished by the competent authority, under the provisions of the West Bengal Land Reforms Act.

15. All steps shall be taken by the respective authorities in accordance with the principles of natural justice and all parties shall be given adequate opportunity of being heard by the Sub-Divisional Officer.

16. The right, title and interest of the parties is not decided in this proceeding. This order is only restricted to the constructions and not possession. However, the fact that the appellant is the recorded raiyat in respect of the lands in question, is available from the report.

17. Accordingly, the appeal and the connected application are disposed of.

18. Urgent certified copy of this order, if applied for, shall be given to the parties upon compliance of all the requisite formalities.

(Shampa Sarkar, J.)

(Arjun Ray Mukherjee, J.)